

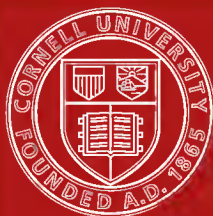
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FACTORY LEGISLATION IN MAINE

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FACTORY LEGISLATION IN MAINE

BY

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E. STAGG WHITIN

PREFACE

THE police power of the state is "the power of promoting the public welfare by restraining and regulating the use of liberty and property." Factory legislation is composed of statute laws which define the method and form the police power shall take in its relation to that part of the community who labor in factories, workshops and industrial establishments of all kinds. It would immediately appear that factory legislation is a term including in most of the states much more than the narrow construction of the word would indicate. Even in the State of Maine, where as yet no elaborate factory code has been evolved in the sixty years of factory legislation, its scope is much broader than would at first be supposed. If one may define it as similar in scope to that of the Bureau of Industrial and Labor Statistics it would be "limited to legislation which has relations to the commercial, industrial, social, educational and sanitary conditions of the laboring people," i. e., conditions that have resulted from the fact that they were laborers in those fields that are recognized as "labor" fields. It takes for granted that such persons, because they are restricted by economic pressure to seek a living wage by selling their time to others, are not free competing agents in society and thus must be protected by the state. Such legislation is simply in fulfilment of the guarantee in the constitution of the states of the right to life, liberty and the pursuit of happiness, and is simply the concrete and definite expression of the police power which every state may use for the protection of the individual. Such legislation would include in the State of

Maine all the laws published by the Commissioner of Industrial and Labor Statistics in his report of 1907.

The national government has long regulated the labor of seamen and in recent years has extended its police power so as to regulate labor conditions in certain lines within the respective states. As yet this control has only been exercised under the constitutional right of the regulation of interstate commerce. The Interstate Commerce Commission at present exerting its power over the employees of all common carriers has taken out of the hands of the states the regulation of wages, hours, employers' liability, etc., for employees when engaged in interstate commerce. For this reason, from this study have been omitted all laws, though enacted by the State of Maine, that relate directly to persons employed on common carriers, or as seamen, because they not only form a class separate from factory legislation, but because no comprehensive study of them would be possible without discussing the field of national legislation.

I desire to extend my thanks to those who have aided me in the writing of this thesis. I am especially indebted to Dr. Samuel McCune Lindsay, Professor of Social Legislation, Columbia University, for his co-operation in the planning and execution. To Dr. Owen R. Lovejoy, Secretary of the National Child Labor Committee, and H. S. Braucher, General Secretary of the Associated Charities of Portland, Maine, I owe much for help in reaching those interested in factory legislation in the State. The assistance of Miss Adelaide R. Hasse, Librarian, Department of Public Documents, New York Public Library, of Dr. Ernest Emery, State Librarian, Augusta, Maine, and of his courteous assistant, Rev. Dr. Livingston, in placing their libraries at my disposal has been invaluable. The courtesy of the Bureau of Industrial and Labor Statistics, through Commissioner Lyons and Major House has extended even to allowing me

to use proof sheets of their report for 1907. Valuable suggestions have been received from conferences with Mr. George E. Morrison, State Factory Inspector; Mrs. Mary L. Burnham, State Officer of the Protection League; George W. Grover, Probation Officer, Portland, Maine; Mr. W. H. Looney, of Portland; Mrs. George C. French, President of the Civic Club, Portland; Mr. E. P. Wentworth, Superintendent of the State School for Boys, Portland; Miss Elsie Nutt, Headworker of the Fraternity Settlement, Portland; and Mr. A. Eagles, President of the Central Labor Union, Portland. These acknowledgments would only be half made if I omitted to mention Abner Nichols, Chairman of the Legislative Committee of the State Federation of Labor, to whom I am indebted for much of the material relating to labor organization.

ERNEST STAGG WHITIN.

COLUMBIA UNIVERSITY, *April, 1908.*

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PART I

HISTORY

CHAPTER I

THE BASIS OF LEGISLATION (1821)

§ 1. *Industries and their Regulation in the District of Maine.*—It is not generally realized that Maine is a manufacturing state, still less that factory bells could have announced the birth of the State of Maine. In the year 1816, four years before that eventful day, a writer in the *Massachusetts Compendium*¹ describes, in quaint language, the manufactories of the State:

There are many ponds in Kennebec County, from one mile to less in length to seven or eight miles, the streams flowing from them to Kennebec, Androscoggin, Sandy Rivers, etc., afford some of the best mill sites in the world, saw mills, grist mills and fulling mills, machines for carding wool are common, a paper mill and a factory for cotton and wool are established on a beautiful stream in Gardiner, factories for cotton and wool are likewise at Winthrop, Readefield and other places. Copperas is made at Winthrop and iron at Clinton.—Anson (the town in which the writer lives) contains generally good land,—it has two grist mills, one has two pair of stones and the other three pair,—saw mill, fulling mill, two carding machines, trip hammer, bark mill, and various machines turned by water, a number of dwelling houses, stores, etc., contribute to form a pretty village. Mills and such villages are common hereabouts. . . .

Maine inherited from Massachusetts as its birthright cer-

¹ *Massachusetts Compendium*, no. 4. p. 72; pub. Portland, 1816.

tain legislation, which, while "blue" according to the standards of our time, tended then to show only its virility. This legislation groups itself under the four heads most conspicuous today in our labor laws: (1) legislation for children; (2) control of the time of labor; (3) regulations in regard to wages, and (4) regulation and inspection of dangerous machines and the protection from fire.

§ 2. *Laying Foundations in Legislation for Children.*—The child was the subject of the earliest and most social of the legislation among the early Pilgrims, the Massachusetts Colony and those settlers in Maine, whose coming antedates these more renowned settlers. The first volume¹ of the Massachusetts records shows provisions for school facilities as early as 1636, while in 1642 an attempt was made to provide some general system of education which should be compulsory upon the children of the colonists. The record of the Colonial Court, is, in part, as follows:

This Court taking into serious consideration the great neglect of many persons and masters in training up their children in learning, and labor, and other employments which may be profitable to the commonwealth, do hereby order and decree, that in every town, the chosen men appointed to manage the prudential affairs of the same, shall henceforth stand charged with the care of the redress of this evil;—and for this end, they, or the greater number of them shall have power to take account from time to time, of all parents and masters, and of their children, especially of their ability to read and understand the principles of religion and the capital laws of this country and to impose fines upon such as fail to render such account to them when they shall be required; and they shall have power, with the consent of the court, or the magistrate, to put forth apprentices the children of such as they shall find not able and fit to employ and bring them up.

¹ *Records of the Colony of Massachusetts*, vol. i.

The selectmen of every town were further required "to have a vigilant eye over their brethren and neighbors, to see that none of them shall suffer so much barbarism in any of their families, as not to endeavor to teach, by themselves or others, their children and apprentices, so much learning as may enable them perfectly to read the English tongue and (obtain) a knowledge of the capital laws; upon penalty of twenty shillings for each offence therein."

In 1647 the first comprehensive law was enacted. The following extract¹ shows the general scope of the law, the system it inaugurated, and the principles upon which that system rested. The original form of spelling is given only in the preamble:

It being one chiefe project of ye ould deluder, Sathan, to keepe men from ye knowledge of ye Scriptures, as in formr times by keeping ym in an unknown tongue, so in these lattr times by perswading from ye use of tongues yt so at least ye true sence and meaning of ye originall might be clouded by false glo of saint seeming deceivers, yt learning may not be buried in ye grave of or fathrs in ye church and commonwealth the Lord assisting or endeavors.

It is therefore ordered by this Court and authority thereof that every township in this jurisdiction, after the Lord hath increased them to the number of fifty householders, shall then forthwith appoint one within their town to teach all such children as shall resort to him, to write and read; whose wages shall be paid, either by the parents or masters of such children, or by the inhabitants in general, by way of supply, as the major part of those who order the prudentials of the town shall appoint; provided that those who send their children be not oppressed by paying much more than they can have them taught for in the adjoining towns.

¹ *Records of the Colony of Massachusetts*, vol. ii, p. 203.

And it is further ordered that when any town shall increase to the number of one hundred families or householders, they shall set up a grammar school, the master thereof being able to instruct youths so far as they may be fitted for the university; and if any town neglect the performance above one year, then every such town shall pay five pounds per annum to the next such school, till they shall perform this order.

Of this old law the historian, R. C. Stanley,¹ says:

It will be seen that this law was not in the interest of the select few, but that it provided a system of common schools for all and made that system compulsory. It will also be seen that under the law were certain principles, now for the first time boldly proclaimed and clearly enunciated, but clung to, emphasized and reiterated by frequent legislation in Massachusetts and in Maine until this day. The first of the underlying principles of these earliest school laws was that the safety and prosperity of the State required that the youth of the State should be educated.

Second, That the parent was in the first instance responsible for the education of his children.

Third, That the State has a right to enforce this responsibility upon the part of parents.

Fourth, That the State may, by legislative enactment, not only require the child to attend school, but may fix a standard of rank which shall determine the kind of education and minimum amount. These principles were set forth in the law of 1642.

It should be noticed that the principle underlying these laws was not that the State should educate the child for the benefit of the child or its parents, but because the safety of the State demands that the child be educated.

It should also be noted that attendance at the schools provided by the law was not made wholly compulsory, for the

¹ *Annual Report of the Board of Education, 1852.*

parent had a right to provide equivalent education in any way he might elect. The law was based on the principle that the child must be educated. If the parent does not provide the means then the child must attend the public schools. This fundamental idea is retained in the school laws of today.

The uniting of the colonies of Massachusetts, Plymouth and Maine under the new charter ¹ of 1691 made these laws applicable to the children of the colony of Maine.

The duty of enforcement of the laws lay upon the selectmen, until, in 1789, a general school law was passed which included ministers of the Gospel as well in the good work. The year previous, 1788, these ministers ² had been given a "benefit" of three hundred and twenty acres of "minister lot," together with the use of a similar lot known as the "ministerial lot," while the school of the town was given a similar "school lot" of three hundred and twenty acres. Natural it was that the duty of pastoral truant officer be given by the State to these good dominies, because payment had already been provided for their services. At least this duty was plain, for the law ³ of 1788 reads:

And it shall be the duty of the Minister or Ministers of the Gospel and the Selectmen (or such other persons as shall be especially chosen by each town or district for that purpose) of the several towns or districts, to use their influence and best endeavors that the youth of their respective towns and districts do regularly attend the schools appointed and supported as aforesaid, for their instruction; and once in every six months, at least, and as much oftener as they shall determine it necessary, to visit and inspect the several schools in their re-

¹ MacDonald, *Select Charters*, 205-212. Poore, *Charter and Constitution*, vol. ii, p. 942.

² *Laws of 1789*, Massachusetts, chap. xix, sec. 7.

³ *Laws of 1788*, Massachusetts.

spective towns and districts, and shall inquire into the regulations and discipline thereof, and the proficiency of the scholars therein, giving reasonable notice of the time of their visitation.

How "vigilant an eye" was kept over the children, there are no records to show, but the "benefit of ministry" was enjoyed until the year 1832, when an act was passed to regulate the question of school lands which seemed to have been carried over by the "Act of Separation,"¹ and to appropriate "the income of certain ministerial funds to the support of schools."

Inheriting these traditions, the new State passed a comprehensive school law in January, 1821,² perpetuating the principles of the old Massachusetts law, but failing to definitely locate the responsibility of enforcement upon any of the school or ecclesiastical authorities.

This omission ought not to have excused the selectmen from their legal responsibility. Section 6 of the Articles of Separation states "That all the laws which shall be in force within the said District of Maine, upon the said fifteenth day of March next, shall still remain, and be in force, within the said proposed State, until altered or repealed by the government thereof, such parts only excepted as may be inconsistent with the situation and condition of said new State, or repugnant to the constitution thereof." But the ministers and selectmen were busy with other things, and seldom, probably, did the duty of enforcement of school attendance weigh heavily on their shoulders.

We shall trace in the chapters that are to follow the way in which by subsequent legislation the state made definite the regulations in regard to the activities of young children

¹ *Journal of the Constitutional Convention*, 1819-1820, p. 12.

² *Revised Statutes* (Maine, 1822).

and the powers of those in whose hands the duty of enforcement rests, but it is in this early legislation that we find the promise of the later development of this principle.

§ 3. *The Control of the Time for Manual Labor.*—Probably no “blue law” of the old colonies was more rigidly enforced than that providing for a day of rest on the Sabbath. It is unnecessary here to trace the differing forms in which this semi-religious legislation expressed itself in the colonial and district period of Maine history, because its spirit survives the “Act of Separation” and was enacted in statute form in the session of 1821.¹ Surely no one can doubt the sincere conviction of our ancestors as shown in this act, that the State has a right to control and limit the time during which the persons in the State could legally perform certain specified acts of labor. Despite its religious emphasis this right is clearly and emphatically enunciated. Its quaint language will justify a careful reading by the modern student of the subject.

Whereas the observance of the Lord's day is highly promotive of the welfare of the community, by affording necessary seasons for relaxation from labor and the cares of business; for moral reflections and conversation on the duties of life, and the frequent errors of human conduct; for public and private worship of the Maker, Governor and Judge of the world; and for those acts of charity which support and adorn a Christian Society; And whereas some thoughtless and irreligious persons, inattentive to the duties and benefits of the Lord's day, profane the same, by unnecessarily pursuing their worldly business and recreations on that day, to their own great damage, as members of a Christian Society; to the great disturbance of well disposed persons, and to the great injury of the community, by producing dissipation of manners and immoralities of life.

¹ *Revised Statutes*, 1822.

Sec. 1. That no traveller, drover, waggoner, teamster, or any of their servants, shall travel on the Lord's day, or any part thereof (except from necessity or charity,) under a penalty not less than four dollars nor more than six dollars and sixty-six cents; which penalty may be recovered with costs of prosecution, upon complaint before any Justice of the Peace in the County where the offence may be committed; one moiety thereof to the complainant and the other moiety to the use of the County within which the offence may be committed; or before the Circuit Court of Common Pleas of the same County by presentment of the Grand Jury, in which case the whole penalty shall enure to the benefit of the County: *Provided however*, That all prosecutions for the said penalty shall be commenced within six months after the offence was committed, unless the offender resides without the State.

Sec. 2. That no person or persons whatsoever shall keep open, his, her, or their shop, warehouse, or workhouse, nor shall, upon land or water do any manner of labor, business, or work, (works of necessity and charity only excepted,) nor be present at any concert of music, dancing or any public diversion, show or entertainment, nor use any sport, game, play, or recreation, on the Lord's day, or any part thereof, upon penalty of a sum not exceeding six dollars and sixty-six cents, nor less than four dollars for each offence.

Sec. 3. That no vintner, retailer of strong liquors, innholder or other person keeping a house of public entertainment, shall entertain or suffer any of the inhabitants of the respective towns where they dwell, or others not being travellers, strangers, or lodgers in such houses, to abide and remain in their houses, yards, orchards or fields, drinking, or spending their time either idly or at play or doing any secular business on the Lord's day or any part thereof, on penalty of three dollars and thirty-three cents, payable by such vintner, retailer or innholder, or person keeping such house of entertainment, for each person so entertained or suffered; and every person so drinking or abiding, (except as aforesaid,) shall pay a fine not less than

two dollars, nor more than four, for each offence; and every such licensed person, upon any conviction after the first, shall pay a fine of six dollars and sixty-six cents for each offence; and having been three times convicted, shall be debarred from renewing his license forever after. And although it is the sense of this Legislature, that the time commanded in the sacred Scriptures to be observed as holy time, includes a natural day, or twenty-four hours; yet whereas there is a difference of opinion concerning the beginning and the ending of the Lord's day among the good people of this State, and this Legislature being unwilling to lay any restrictions, which may seem unnecessary or unreasonable, to persons of sobriety and conscience:

Sec. 4. That all the foregoing regulations, respecting the due observation of the Lord's day, shall be construed to extend to the time included between the midnight preceding and the sun setting of the same day.

Sec. 5. That no person shall be present at any concert of music, dancing, or other public diversion, nor shall any person or persons use any game, sport, play or recreation, on the land or water, on the evening next preceding or succeeding the Lord's day, on pain of three dollars and thirty-three cents for each offence; and no retailer, innholder, or person licensed to keep a public house, shall entertain, or suffer to remain, or be in their houses or yards or other places appurtenant, any person or persons, (travellers, strangers or lodgers excepted,) drinking or spending their time on the said evenings on penalty of three dollars.

Sec. 6. That the fines and penalties aforesaid, shall be, one moiety thereof to the town wherein the offence shall be committed, and the other moiety thereof to any person or persons who shall inform and sue for the same; to be recovered by a complaint to a Justice of the Peace, with costs of suit, or the said fines may be recovered by presentment of the Grand Jury before the Circuit Court of Common Pleas, in the County wherein the offence or offences shall be committed, and when thus recovered, shall enure to the town wherein the offence

shall be committed. And whereas the public worship of Almighty God is esteemed by Christians an essential part of the due observance of the Lord's day, and requires the greatest of reverence for a due performance of the same :

Sec. 12. Be it further enacted, That the special authority given by this act to Tythingmen, for preventing the breaches thereof, shall not be construed or understood to exempt any Sheriff, Grand Jurors, Constables, or other officers or persons whatsoever, from any obligation or duty, to cause this act to be put in execution, but they shall be held to take due notice and prosecute all breaches thereof, such special authority notwithstanding.

Sec. 13. That all the penalties and fines, incurred and paid for any of the offences aforesaid, mentioned in the seventh, eighth, and tenth sections of this act shall be for the use of the State. And that all said offences, the penalties against which exceed seven dollars, shall be prosecuted by presentment of the Grand Jury, before the Circuit Court of Common Pleas, in the County wherein the offence may be committed; But all offences, the penalty whereof does not exceed seven dollars, except the offender lives out of the County in which the offence may be committed, shall be prosecuted by complaint before a Justice of the Peace in such County; but when the offender lives out of such County, he may be prosecuted by presentment as aforesaid, although the penalty does not exceed seven dollars.

This law remained in this form until the amendment of 1864, which is in effect today. (See page 62).

§ 4. *Regulations in Regard to Wages.*—Wages had not become at this early time the complicated problem that we shall discuss later, but as early as 1821, an act¹ was passed protecting the laborer from "foreign attachment," giving him the preferred claim to wages. Chapter 61,¹ Section 15, reads: "By reason of any amount due from him to the prin-

¹ *Revised Statutes*, 1822.

cipal defendant, as wages for his personal labor for a time not exceeding one month."

§ 5. *Regulation and Inspection of Dangerous Machines and the Protection from Fire.*—The early beginnings in the regulation and inspection of dangerous machines and the protection from fire may be seen in the act ¹ approved March 19, 1821, providing "for the prevention of danger by fire, and the safe keeping of gunpowder:" Section 1 of this act makes it a duty incumbent upon the Selectmen to make regulations as to the keeping of gunpowder in certain towns. Section 2 imposes a penalty for the violation of such regulations and provides a mode of recovery. Section 3 makes liable for seizure powder kept contrary to the regulations. Section 4 provides for redress by persons damaged by explosions of powder illegally kept. Section 5 gives power of search for powder to the Selectmen, with permission to enter any building, while the sixth section, annexed to the law almost like a postscript, provides a penalty of from ten to fifty dollars for anyone suffering a stove, chimney or stove-pipe to be defective. Out of this provision for inspection and regulation grew the powers of the factory department sixty-six years later.

In the following chapters we shall show the development of these principles to meet the needs of the growing industrial activities of the State.

¹ *Revised Statutes*, 1822.

CHAPTER II

EARLY CHILD LABOR LAWS. 1847-1855

§ 1. *Early Factory Conditions, (1841-1843).*—The early days of the new State were busy ones for the law-makers, who had a large territory with a population representing for the most part lumber, fishing and agricultural interests. Natural it is that the struggling manufacturers should have been left for a quarter of a century to look after the interests of their own employees. Judging of the conditions in early times from a description of the conditions at the York Manufacturing Company of Biddeford, in the official Register¹ of 1841, it would seem that probably little legislation was needed. After describing this company as one having seventeen thousand eight hundred spindles, five hundred and seventy looms, capitalized at a million dollars, it gives the statistics for 1840 as eight hundred female operatives, and two hundred male, with a pay roll of three thousand dollars per week, and a hundred and fifty thousand a year, and goes on to say, "No hands, male or female, are employed under fourteen years of age, and very few under sixteen. None are admitted until they have been properly instructed in reading and writing, and in order to show their proficiency, they are in all cases required to write their names before going into the mills. Writing schools are generally kept in the evening for the improvement of those who desire it. It is a general regulation of the company that

¹ *Maine Register*, 1841 (Portland).

those in their employment or living in their houses, who have not had the kinepox, shall be vaccinated, and a physician is employed for this purpose. An arrangement is made with the physician of the place, at the expense of the company, to attend, in case of sickness, upon all females in their employment, without charge to them for medical advice or attendance." How authentic this account is, we have no means of telling, but it appears to have been written by some State official. Probably it is not a true picture of the conditions under which the twenty-three thousand four hundred and thirty-eight persons reported¹ to be employed in manufactories in 1843 were laboring, yet an example like this must have had a good effect on the other companies, and the competition for labor kept a fairly high average. By that year fourteen millions of capital had been invested in the manufactories of the State, and the value of the manufactured goods was over ten millions.

The State was not without voluntary associations for the aid of the mechanic. As early as 1815 there was incorporated the Maine Charitable Mechanics' Association, which in 1841 was described as follows:² "This Association has a fund of from fifteen hundred to two thousand dollars, its design is to encourage the mechanical arts, to relieve indigent members and widows and orphans of deceased members when in need, and also to assist members by loans of money. It is an excellent institution and has much enhanced respectability and intelligence of mechanics in the city of Portland."

§ 2. *Educational Campaign.*—The interest in education seemed to be growing from year to year and the school system was becoming more adequate. Governor Kent, in his

¹ *Maine Register*, 1843.

² *Maine Register*, 1841, p. 86.

inaugural address¹ in 1841, probably expressed the sentiment of the people: "We are justly proud of our system of common schools and New England can point to no higher evidence of wisdom, patriotism and foresight of the fathers of our land. The principle of universal education, upon which the system is based, lies at the very foundation of our republican institutions." The movement to better the facilities for general education was greatly advanced by a convention of teachers and those interested in education held in Augusta, January, 1846, where a committee was appointed, consisting of Amos Brown, Philip Eastman, A. S. Packard and Samuel P. Benson, to study the defects in the educational system and suggest measures for their removal. This committee submitted a memorial² to the legislature the next year. As a result the education bill³ of 1846 was passed, which for the first time gave the State a centralized educational agency or Board of Education, having the interest of the whole State at heart. It was only when the evolution of the school system had reached this point that the State was ready to undertake adequate legislation for the protection of the less fortunate children in the community. While this Board was simply a confederation, as it were, representing the town school committees, still it was the first attempt to get away from the old Massachusetts town system. The breaking-away from the town system made possible the conception of regulations applying to the whole State, but it was many years, as we shall see, before centralized enforcement became possible.

In 1847 this movement took effect in legislation. In Governor Dana's message to the legislature that year, he

¹ *Governor's Annual Message*, 1841, p. 19.

² *Public Documents of Maine*, 1846.

³ *Laws of 1846*.

points out that ¹ “ a large portion of our population expects no education for their children, except that they may be able to read and write intelligently and acquire the rudiments of arithmetic. This they feel will be secured during the period of their minority even without effort.” The Governor goes on to plead for some means of overcoming this indifference on the part of the people to adequate education, and suggests that the legislature consider the establishment of agricultural schools as a means to this end. Fortunate it is that the legislature did not restrict its discussion to the agricultural school proposed by the Governor, but went carefully into the whole problem involved. A newspaper ² of the time tells us of an educational meeting held at the State House on the evening of May 19th, 1847, specially called to hear an address by William G. Crosby, Secretary of the Board of Education. The reporter states that there assembled a “ recherche ” audience consisting of legislators, the Governor, the Council, judges, the Board of Education, local doctors, and so forth.

“ There were among the audience men of learning; men representing the communities whose prejudices had been excited, whose coming—with truth it may be said—from all quarters with lethargic indifference upon the subject of common school education is the predominant and most unhappy feature.” Secretary Crosby, we are told, dwelt upon the failure in regard to physical and moral education, and pointed out that “ one of the greatest evils existing was neglect of children to attend punctually upon the means of instruction.” “ Facts were cited,” the reporter tells us, “ which would astonish any man who feels an interest in popular education. The remedy for existing evils, it was

¹ *Governor's Annual Message*, 1847.

² *Eastern Argus* (May 22, 1847).

remarked, was easy to be found. It lies with the people, to them it belongs to furnish it, and with them the responsibility."

§ 3. *The First Child Labor Bill (1847).*—How much interest was excited by this meeting we can only judge from the fact that some two weeks later, on June 2d, in the Senate, "Mr. Bellamy laid on the table a bill for the better instruction of youth in manufacturing establishments, and it was referred to the Committee on Education. It provides that children under fifteen years of age should have received three months' schooling each year, and those under twelve years of age, four months' schooling."¹

The bill must have been the cause of some discussion at the meeting held the next evening, June 3d, of which a chatty reporter in announcing it in the "Notes by a Straggler,"² tells us,

The friends of education will hold a meeting this evening to discuss important subjects relating to common school education. I am glad to hear of this—and hope that the meetings will be kept up at least as often as once a week during the session. Amid the fun and frivolity incident to the Capital during the session, it is refreshing to have friends of progress in education and other measures of benefit to the people awake to their duty. Here center many of the leading men of the State—the representatives of its towns and villages. New ideas for the promotion of education and the advancement of mankind gathered here, may be carried home with them, and made to scatter their benefits there, and thus do good a hundredfold.

§ 4. *The Example of England and Other States.*—Unfortunately it is that the reporter could not have told us

¹ *Eastern Argus* (June 5th, 1847).

² *Ibid.*

exactly what took place at the meeting, but it will not be impossible by a little research on our own part to review in brief a few of the points which must have been presented to so "recherche" an audience. We may well suppose that Mr. Bellamy, who to the readers of today would seem to have been looking forward with no uncertain vision, must have been questioned as to the sources from which he derived his bill. If we may picture him as looking backward—and his name would suggest the possibility to a younger generation—he could not have failed to develop the following facts, which he could have secured without much trouble from the then Secretary of the Massachusetts Board of Education, the young Horace Mann.¹

The old country had been closely followed in her legislation by the sisterhood of New England States. The Health and Morals of Apprentices Act of 1802² had been followed in Connecticut in 1813 by an act³ providing that "the proprietors of all manufacturing establishments were required to see that all the children of their employ were taught reading, writing and arithmetic, and the Selectmen of the town required to report violations to the court." The Sadler investigation for Parliament had resulted in the adoption by Massachusetts in 1836⁴ of an act providing that "no children under fifteen years shall be employed to labor in any manufacturing establishment or in any other business unless such child shall have attended some public or private school . . . at least three months of the twelve next preceding, any and every year in which such child shall be so employed

¹ *Report of Bureau of Statistics of Labor of Massachusetts*, 1876, p. 267.

² Act 42, Geo. III, c. 73.

³ *History of Compulsory Education*, J. W. Perrin (Chicago, 1896), p. 26.

⁴ *Laws of Massachusetts*, 1836, p. 950.

. . . ,” and also providing for forfeiture, for each offense by a manufacturer, of \$50, to go to the use of the School Committee.

In 1842¹ this act was strengthened by placing the responsibility of enforcement on the School Committee and giving the fine to the person prosecuting. It further provided that ten hours should be the working day for children under twelve years, and established a penalty for violation of the act.

The same year, 1842,² Connecticut had amended her legislation on the subject, providing for the three months’ schooling for children under fifteen years, with a penalty of twenty-five dollars, and a ten-hour day for children under fourteen years (Massachusetts was twelve years), with a penalty of seven dollars for each violation. School certificates were required, and the school committee had the duty of enforcement and inspection.

In 1846³ New Hampshire had provided that children under fifteen years of age should attend school for three months, and those under twelve, six months, and had provided for certificates, a fifty-dollar penalty to go to the prosecutor, with enforcement by the school committee aided by the school commissioner and the attorney general.

Now the proposed Maine bill followed the Massachusetts act of 1836 in having three months of school required for all factory children under fifteen years, even to the wording. It literally copied from the New Hampshire act of 1846 the provisions for six months’ schooling for factory children under twelve years of age, reducing it, however, to four months, and the requirement for school certificates and en-

¹ *Laws of Massachusetts, 1842.*

² *Laws of Connecticut, 1842.*

³ *Laws of New Hampshire, 1846.*

forcement by school committees, both of which first appear in the Connecticut act of 1842. In respect to the penalty of fifty dollars the precedent of both Massachusetts and Connecticut was followed, but the division of the fine money between the town and the prosecutor was a natural result from the confused precedents in the other states. The power to call upon the attorney general to aid the enforcement came from the New Hampshire law. The omission of the ten-hour restriction, which was in the Connecticut and Massachusetts laws, was an imitation of New Hampshire, where the extended term of schooling for children under twelve had been substituted.

§ 5. *Value of Enforcement by School Committees Questioned.*—Unfortunately the records of not only this meeting, but of the legislative debates, are limited to the meagre notes found in the official paper. The weakness in the proposed legislation is rather suggested by a motion made in the Senate on June eighteenth to the effect that “the Committee on Education be asked to inquire into the expediency of making it a penal offence when superintending school committees in cities and towns neglect or refuse to perform their duty.”¹ The answer to this query is contained in Secretary Crosby’s report for the following years. He says,²

I regard the visits of the school committees as of incalculable value. The law requires them “to use their influence and best endeavors that the youth in the several districts regularly attend the schools.” It has been contended that our superintending school committees possess the legal authority to enforce the regular attendance of scholars, under the same penalty [expulsion], but I do not so construe the law creating that office, in defining its powers and duties. It has been proposed

¹ *The Age* (June 25, 1847).

² *Report of the Secretary of Education* (April 25, 1848), p. 63.

to legislate upon the subject [attendance], but I entertain the belief that compulsory enactment would be of no permanent good, that they would only serve to keep alive, for a time, a spirit of opposition, or open hostility, which would retard the progress of enlightened public sentiment, that they would ultimately be a dead letter on the statute book. . . . The only effective mode of reforming this evil is by awaking the public mind to a due appreciation of a thorough education.

The bill in regard to "youth in manufacturing establishments" must have been amended in some way to be limited simply to "cotton and woolen" mills. In so doing Maine followed more closely the English legislation than that of her sister States. All we know of the amendment is that it appears on the record ¹ of July third in the afternoon that there was "passed to be engrossed the bill to provide for the better education of youth in cotton and woolen mills." Its passage probably was uneventful, coming as it did between the official reception of President Polk, who arrived in state the previous morning, and the grand celebration ² on the Fourth of July, when all the guns in the State saluted the State's visitor, the national President.

§ 6. *The Act of 1847.* — An act ³ to provide for the better education of youths in cotton and woolen manufacturing establishments.

Sec. 1. From and after the 1st day of January, in the year of our Lord, eighteen hundred and forty-eight, no child under fifteen years shall be employed to labor in any cotton or woolen manufacturing establishment unless such child shall have attended some public or private day school, where instruction

¹ *The Age* (July 5, 1847).

² *Ibid.*

³ *The Age Extra*, 1847. Pub. Laws passed Leg. 1847.

is given by a teacher, qualified as the law of the State requires teachers in our public schools to be qualified, at least three months of the twelve months next preceding any and every year in which said child shall be so employed.

Sec. 2. No child under the age of twelve years shall be employed in any cotton or woolen manufacturing establishment, unless such child shall have attended some public or private day school, where instruction is given by a teacher qualified as in section first of this act is provided, at least four months of the twelve months next preceding any and every year in which such child shall be so employed.

Sec. 3. The owner, agent or superintendent of any cotton or woolen manufacturing establishment, who shall employ any child in such establishment under fifteen years of age, without first having deposited with the clerk or agent thereof, a certificate from a teacher duly and under oath certifying that such child has attended school under his or her charge as is provided by this act, shall forfeit the sum of fifty dollars for each offence, to be recovered by indictment in any court competent to try the same, one-half to the complainant, and the other half to the town where the offence was committed, for the use and benefit of the public schools, to be apportioned among the several districts as the school money is apportioned.

Sec. 4. The superintending school committees within the State may inquire into any violations of the act, and make report of the same to the county attorneys of the several counties, and it shall be their duty, as soon as may be possible after the receipt of said report, to prosecute for such violations.

The Governor approved this act August 2, 1847.

§ 7. *Act of 1848—Regulating Hours of Labor.*—The act of 1847 omitted the regulation in regard to the hours of labor which had been part of the legislation of both Massachusetts and Connecticut in their acts of 1842. This omission seems to point clearly to a lack of appreciation by the

friends of education as to the real needs of labor. The act seems to have for a time met the demands of the educators, but the labor interests come to the front in the following year, encouraged probably by the English legislation of 1847. On March thirty-first there were presented to the Senate petitions signed by Isaac Fosset and others "for the passage of a law making ten hours a legal day."¹ They were "referred to a joint select committee consisting in the Senate of Messrs. Chapman, Chase and Doughty."¹ The petitions caused no comment in the daily press, but we find on June third,² that Edward F. Reynolds and Daniel Reed and others present a like petition. On the fifth,² Reuben Curtis, George W. Cummings, E. B. Foster and C. W. Redeout head petitions. June seventh,² Lemos Graves does likewise, while on the thirtieth³ of the same month Joseph Staples adds to the list his followers.

The Committee on Judiciary, to which was referred the petition of Reuben Blake and others (389), reported July tenth of the same year.⁴ These good legislators argued that there were standards by law for weights and measures, but at present none for men's work, and that they were living in a high latitude in which there were very short days, to which both man and beast must conform. The committee went on to find: "Your committee is firmly of the opinion, from all the facts and information they can procure, that men can accomplish more work in ten hours where that system is reduced to practice, than when they work as long as they can see. . . Labor has a right to special legislation as well as capital. It also is a right under the Constitution, that one man is not another man's tool." They went on to

¹ *Kennebec Journal* (June 2, 1848).

² *Ibid.* (June 9, 1848).

³ *Ibid.* (July 7, 1848).

⁴ *Public Documents*, 1848.

show their attitude in regard to the child: "One word in relation to the youth, whom the accompanying bill proposes to protect. This country is in fact approaching the old country in relation to manufactories, and it seems to your committee particularly necessary, that some legislation should be had to secure to the youth who go into these establishments as operatives, the means in some measure to preserve their health and to improve their minds. Give to these youths but the time and they will find means of improvement." The report ends in an eloquent plea for philanthropies to give the youths facilities for improvement. The report was signed by Hiram Chapman, the chairman, and was accompanied by a bill regulating the hours of labor.

On July 28th in the Senate Mr. Chapman moves the consideration of the ten-hour bill, which is described in the press¹ as follows. "The bill provides that ten hours shall constitute a day's work, except in pursuance of an express contract requiring a greater length of time. It also provides that no agent or other officer of any corporation shall employ any minor under the age of sixteen for more than ten hours in any one day under penalty of ten dollars." Under the question of engrossing, the bill was debated, Messrs. Chapman, Dodge and Pool defending, while it was opposed by Messrs. Fluet, Thomas, Tripp, Dumost, Townsend, Fox, Hale and Dyer. The motion was made to amend by striking out the provision that it should go into effect upon the approval of the Governor. This was passed. The bill was laid on the table indefinitely by a vote of nineteen to eleven. The next day² Mr. Chapman moved to reconsider the bill, stating that the Senate would hear from the "three thousand petitioners, who would not remain

¹ *Kennebec Journal* (August 4, 1848).

² *Ibid.*

content with the action of this legislature in regard to it." Senator Treat said a portion of his constituents, among those engaged in the mechanical arts, were induced to desire its passage. How it was with another great interest among his constituents, the agricultural, he had not had the opportunity to ascertain." On August ninth¹ the bill "was amended in concurrence and passed to engrossing." The amendment offered was that in the last part of Section 2, providing that "all fines shall be paid, one half to the city, town or plantation, where the offence is committed, and the other half to the persons so held to labor or to their parents or guardians on complaint to any court competent to try the case." It was also provided that it should not go into effect until April 20, 1849. It is probable that the agricultural interests were afraid of the bill, for a further amendment was added at this last joint committee meeting providing that the section should not apply to monthly labor or agricultural employment. The bill as approved² by the Governor on August tenth read as follows:

Sec. 1. In all contract for labor, ten hours shall be a legal day's work, and no person shall be required or holden to perform more than ten hours' labor in any one day, except in pursuance of an express contract requiring a greater length of time; provided the provision of this section shall not apply to monthly labor or agricultural employments.

Sec. 2. No minor under the age of sixteen years shall be employed in any labor for any manufacturing or other corporation for more than ten hours in any one day, and if any manufacturer, or agent, or other officer of any corporation, shall employ any such minor in violation of the provisions of this section, he or they shall be punished by a fine not exceeding

¹ *The Age* (August 15, 1848).

² *The Age Extra*, 1848.

one hundred dollars; and all fines shall be paid, one half to the city, town or plantation where the offence is committed, the other half to the person so held to labor, or to their parent or guardian, on complaint to any court competent to try the case.

Sec. 3. This act shall take effect and be in force on and after April 20, 1849.¹

§ 8. *Attempt to Repeal the Act of 1848.*—In the next legislature,² 1849, the bill was introduced on July 12th to amend the bill of the year before by repealing the second section relating to the employment of minors by manufacturing corporations, but was laid on the table by the friends of the children. On August 4th it was again laid on the table. On August 13th the motion to postpone was lost by a vote of 43 to 51. The amendment was passed by a vote of 57 to 52, and sent to be engrossed. The next day final action was taken by sending the bill to the Governor. On August 15th the Governor returned the bill, together with another bill relating to common sellers of intoxicating liquors. The Governor stated³ that “the legislature afforded me no opportunity to devote to them the consideration which each of these measures, from their importance demands or to communicate at length on my objections to them. The first bill repeals an act of 1848 which prohibits the employment of minors under the age of sixteen for more than ten hours in any one day. I regard the repeal of the law, to say the least as a measure of very doubtful policy.”

The Governor must have given extremely careful consideration to the subject, for at the opening of the next session of the legislature he sent the following message, which would do credit to any governor, or president, for that matter, even in the early part of the twentieth century.

¹ *The Age* (Dec. 6, 1848).

² *The Age* (August, 1849).

³ *The Age Special* (August 18, 1849).

§ 9. *Governor Dana's Child Labor Message of 1850.*¹—On the morning of the final adjournment of the last legislature, a bill entitled "an act to amend the eighty-third chapter of the laws of eighteen hundred and forty eight" received its final passage, and was presented for my approval. That chapter contains, section two, which is as follows: "No minor under the age of sixteen years shall be employed in any labor for any manufacturing or other corporation for more than ten hours in any one day; and if any manufacturer, or agent, or other officer of any corporation, shall employ any such minor in violation of the provisions of this section, he or they shall be punished by a fine not exceeding one hundred dollars; and all fines and forfeitures accruing by virtue of this act shall be paid, one half to the city, town or plantation, where the offence is committed, the other half to the person so held to labor or to their parent or guardian, on complaint to any court competent to try the same." The bill in question repeals that section. Entertaining doubts of the expediency of repealing this provision, and being deprived of an opportunity for deliberation upon the subject, by the immediate adjournment of the legislature, I retained the bill for further advisement. The consideration since given it, has not removed, but confirmed, those doubts.

The dependence, degradation and want, of the operatives in other countries—the mental and physical imbecility to which a large portion of them are reduced, have excited the fears of many patriotic minds, that the large and increasing employment of capital and labor, in like pursuits, in our own country, must produce like results. While on the other hand, the present condition of *our* operatives, well fed, clothed and paid, healthy and intelligent, is presented as undeniable evidence that those fears are unfounded. But it should be remembered, that our manufacturing interest is, comparatively, in its infancy, and that consequently, its effects upon our population are but slightly developed.

¹ *Public Doc., 1850, Senate Doc. 21.*

In other countries, the occupation has descended from father to son, from mother to daughter, generation after generation; the child is taken from the cradle to the factory; the only atmosphere he breathes, is that of the mill; the only education he receives, is perfection in his art; impure air, and stunted mental food, forbid development of mind or body. By such a process, gradual, though sure in its effects, the foreign operative has been divested, in a great degree, of the most desirable attributes of humanity. But in this country, even around our most extensive manufacturing establishments, we have not, within the strict meaning of the expression, a manufacturing population. A large proportion of our operatives, are those who have been reared in the free air and healthful exercise of the farmer's home, participating in all the varied enjoyments, cares and duties, of ordinary domestic life, and in all the opportunities, which our institutions afford, for a good practical education. With health, habits and characters, thus formed, and fitted for usefulness in any sphere, they resort to the factory for *temporary* employment, and soon return again to other pursuits. A small portion, however, adopt this as a permanent occupation, and fix their homes in the vicinity of the manufacturing establishments. Of these the number is annually increasing and rapidly forming a permanent manufacturing population, which before another generation has passed, will be sufficiently numerous to perform a large proportion of all the requisite labor. And the question arises, shall *they* be required to give to their children, a full opportunity, such as they received, for physical, moral, and mental development, to fit them for usefulness and success, in any sphere of action, which they may afterwards select? or shall they be allowed to limit, from childhood, their mental, as well as natural vision, by the walls of a cotton mill, and thus make them, for life, the mere appendages of the loom and spindle?

It may, perhaps, be assumed, that this is a subject, which may be safely left to the discretion of parents, and that therefore, legislative regulations are unnecessary. In other coun-

tries, it has been thus left to the discretion of parents, and a numerous, degraded population are now reaping the consequences, in misery and wretchedness. Again, it may be asked, why may not a manufacturing, as well as any other population, regulate the labor and education of their children? The answer is obvious, that we have no other industrial pursuit in which large numbers of children can be constantly and profitably employed. It is a fact well known, that thousands of children in our state are absent from our public schools, merely from thoughtlessness and indifference on the part of parents. If the well being of these children can be thus overlooked, from mere indolent neglect, how greatly must this evil increase, when to this cause is added, a constant pecuniary reward for disregarding their true interests. In our manufacturing towns, this reward is offered; the operative, who is a parent, can make an important addition to his earnings, by taking his children with him to his labor, and thus the temptation is daily before him. Hence the necessity for legislative interference, which does not exist in relation to any other industrial pursuit.

Here may be found the hidden cause, that has undermined and deteriorated the manufacturing population, in every other country. It is not, that this employment tends less than many others to health of body or activity of mind, but because the earnings of the child constitute an ever present temptation to the parent, to impose upon him, toil and confinement, inconsistent with a full development, that can only be acquired under the discipline of home, and the school room, and in the enjoyment of the free air of Heaven. The cause which has gradually produced such results elsewhere, must, in time, produce the same results here, unless counteracted. And to this end, legal restraint should be given, in aid of parental judgment and affection, in their unceasing struggle with parental cupidity and necessity.

We are destined to be a great manufacturing people; and it depends upon wise legislation whether that destiny shall be to us, a blessing or a curse. The interest is now in its

infancy, and if properly regulated, the anticipations of evil, which many entertain, may never be realized. We may continue to exhibit the present favorable contrast between the operatives of *this*, and all other countries. Maine has no laws regulating manufacturing labor or education, except the one proposed to be repealed, by this bill, which prohibits the employment of minors less than sixteen years of age, more than ten hours in a day. No one will pretend, that persons under that age can, with impunity, be employed daily, for a greater length of time. But it is said, that mills must be in operation more than ten hours a day, and that it is consequently necessary to employ only such as can labor more than that time, and that therefore many a child is deprived of the privilege of affording, by his earnings, pecuniary relief and comfort to indigent parents or friends. If the prohibition was only to operate upon a few isolated cases of this nature, now or hereafter, it would be unwise to continue it. A child might, perhaps, relieve by its earnings, the necessities of a poor widowed mother, and derive much happiness, with but little perceptible injury, from the effort; but if for the purpose of affording such relief, the state permit that child, and with it, others, and their descendants, for three or four generations, to engage thus in premature toil, it permits the mother to be relieved, at the incalculable cost, of entailing upon thousands of offspring, mental and bodily imbecility, poverty and wretchedness. The descent to such a condition, from such a cause, is imperceptible but sure, and more to be feared, because its silent progress awakens no effort for its arrest. Our legislation should be directed to the prevention of this wholesale dilution of the race, even though it produce in some instances inconvenience and suffering.

I would not, from these remarks, be understood, as advocating a system of legislation, for the purpose of protection of labor against capital; for this should not be regarded as a question of labor, but of education. And by education, I mean, not merely the instruction which the school affords, but

the full growth—the harmonious expansion of both the inner and the outer man. Let the legislature discharge the duty, which the constitution imposes, of exercising a watchful care, in providing such an education for our youth, and it never will be required to act, in protection of the laborer, from the oppression of the capitalist. Under our free government, if honestly and equally administered, for the good of all, enterprising, intelligent labor, must ever be as independent of capital, as capital can be of such labor; the one can never fall a prey, to the unreasonable demands of the other, until it becomes enfeebled, ignorant and degraded.

Instead of repealing the present prohibition, I would recommend, that it be retained, until an opportunity is had for a careful examination of the whole subject, and the adoption of such regulations as will for long succeeding years, command the gratitude of a class of healthful, intelligent and independent operatives.

Governor Dana's message placed the rights of the factory child to education squarely before the people of Maine, and his veto of the amendment gave them the protection of a law equal to that of any other state at the time.

§ 10. *Regulation of Local Compulsory Education.*—The Governor, in speaking of the labor laws of 1847-8, justified them on a purely educational basis, and as such they appealed to the most enlightened elements in the community. But it was just this educational basis which was their greatest source of weakness. It lay in their enforcement by the still only partially organized educational authorities. Even in the same year, 1850, the feeling of the inadequacy of this legislation was so strong that a bill ¹ was passed providing that the town authorities might provide for habitual truants between the ages of six and fifteen, who were with-

¹ *Pub. Doc. 1850, House Doc. 9, p. 23.*

out occupation, by any ordinance which did not conflict with the constitution.¹ It also allowed them to impose penalties under these laws.

It was perfectly logical for those who were interested in the protection of factory children to see that they were only a part of the whole number of children who need to attend school. This act of 1850 extended the right of education to all children, which the act of 1847 had only insured to factory children. Unfortunately it was only a right which could be granted by the town authorities if they chose.

In 1853 the Maine Education Association² was organized, and through its influence more definite legislation was passed in 1855. In that year a strong bill³ was introduced providing that "if any person shall while the public school is in operation furnish employment to any child required by law to attend such school, thus affording the child inducement to disregard the requisites of the law, he shall forfeit and pay five dollars for each day the said child shall thus be hindered from attendance," but the final act⁴ as approved March 14, 1855, appears simply as an amendment to the educational act of 1850, and still leaves enforcement and regulation to the school committee. In it

all towns are hereby authorized and *required* to make all needful provisions and arrangements concerning habitual truants and children between the age of six and fifteen years not attending school without any regular and lawful occupation and growing up in ignorance, and may also make such ordinance and by-laws respecting such children as may be most conducive to their welfare and the good order of such town

¹ *Laws of 1850*, art. cxciii, § 14.

² *Maine Register*, 1855, p. 176.

³ *House Journal*, 1855. "Public Instruction of Youths," art. xli, § 4.

⁴ *Laws of 1855*, chap. cliv, sec. 14.

and there shall be annexed to such provision suitable penalties not exceeding any one breach a fine of twenty dollars: provided, That said ordinance shall not be repugnant to the laws of the State.

Even this law, which for the first time compelled the authorities to provide facilities for the enforcement of the law, leaves that entirely in the hands of the local authorities. The report ¹ of the Secretary of Education in 1861 shows us that even as late as that, invoking of centralized authority was thought unwise. He says, "We do not feel authorized to compel the attendance of children by law as is done in some countries."

¹ *Report of Secretary of Education, 1861, p. 10.*

CHAPTER III

THE MOVEMENT FROM LOCAL TO STATE REGULATION AND ENFORCEMENT AIDED BY INDUSTRIAL CONDITIONS (1861-1886)

§ 1. *Investigations of 1868 and 1874.*—The outbreak of the War took the whole attention of the community, and little was paid for some years to these problems. It was not until the troops came marching home that the people of Maine could begin to take note of their losses, not only in men, but in the industrial line. In 1869 J. A. Poor was appointed general statistician of the State to make a report¹ which had been requested by the Department of the Interior. In this report he says, "The progress of Maine in wealth, population and industrial importance had nearly kept pace with that of the whole country from 1790 to 1836 . . . Till the legislature of Maine in 1836 resorted to measures to restrict the introduction of capital into railroads and manufactories, the two great agencies required for her appropriate development. Maine at once began to decline in population and influence as shown by the census returns of 1840, 1850 and 1860." These rather dismal statements evidently did not satisfy the people of Maine, who must have realized the remarkable development in prosperity which had set in, for in 1873, February 24th, the following resolve was approved by the Governor:²

¹ *Leg. Doc. 1869; Sen. Doc. 1.*

² *Statistics of Industries and Finances of Maine*, p. 1 (Augusta, 1884).

That under the direction of the Secretary of State, there be annually collected, arranged and printed, in condensed form, statistical details, relating to all departments of labor in the state, especially in its relation to manufacturing, mining, commercial and industrial interests, together with the valuation and appropriations for various purposes, of the several towns and cities of the state. It shall be the duty of the person employed in the compilation of said statistics, to secure, by circulars to, and correspondence with assessors and other persons, as complete a compilation as practicable, of the industrial progress of the state; it shall be the duty of assessors of the several towns, to furnish the statistics called for, as completely and promptly as practicable. To meet the expense of said compilation the governor is hereby authorized to draw his warrants upon the treasury for an amount not exceeding one thousand dollars, from any moneys not otherwise appropriated.

As a result of the resolve, E. S. Whitman was appointed statistician, and his report,¹ based upon the census of 1870, which was taken the year after the report of Mr. Poor, showed a very gratifying state of affairs. He says, "Notwithstanding there was a loss of population the last decade in Maine, there was a steady increase in the products of our manufacturing industry and wealth, and this, too, while the resources of the State were taxed on account of the war of the rebellion. The growth of manufactures from 1860 to 1870 was 108%, making no allowance for discount to bring currency values to the gold standard. The growth since 1870, according to our estimate, has been 21%. It is evident that Maine has entered upon a new era of prosperity and growth since 1870." He also goes on to prove that the condition of women and children in industry has been bettered and that there are probably few children engaged in gainful occupations.

¹ E. S. Whitman, *Statistics of Maine Industry*, 1873, p. 11.

This demand for industrial statistics was probably encouraged by the remarkable findings of the Massachusetts Bureau of Statistics of Labor, which was started in 1869.¹

§ 2. *The First Mandatory Act Regarding Attendance (1875).*—Despite the good conditions reported by the Statistician, Mr. Whitman, Governor Dingley pointed out in his annual address of 1874² that “there were 13,436 persons in the State above ten years of age who could not read or write.” He blames this to the school system, but goes on to say, “Even the factory act in this State, which requires certain attendance at school of children who work in manufacturing establishments is a dead letter.” He pleads the need of creating public sentiment on this point. The following year Governor Dingley makes more definite the need of some law to compel school attendance. “In the judgment of many of the best educators,” he says,³ “the time has arrived for the State to enact a law making attendance upon some school a certain portion of the year obligatory upon children between eight and fourteen years. In my annual address a year ago, I urged an action of this character whenever public sentiment should be advanced sufficiently to secure its enforcement to any considerable extent. Discussion within a year or two has certainly aroused public attention to the dangers which threaten free institutions from the many ranks of ignorance and the indications are so hopeful that such an enactment would not be suffered to remain a dead letter but would on the contrary prove in many cases an instrument for good, that I recommend this important subject to your favorable consideration.”

¹ *Annual Report of Bureau of Industrial and Labor Statistics, 1907, p. 13.*

² *Governor's Annual Message, 1874, p. 18.*

³ *Ibid., 1874, p. 19.*

After careful consideration, the legislature of that year passed a bill¹ providing that every child between the ages of nine and fifteen be required to attend school at least twelve weeks in every year each year unless excused by the school officers. This was the first mandatory act regarding school children and marked a forward step as compared with the local regulations, but still the execution of this law devolved on the school committees and supervisors, for whom no help was offered. To put a premium upon enforcement, the Governor in his message² of 1878 recommended that the attendance, rather than the number of scholars enrolled, should be the basis for the apportionment of school money, but this was not incorporated in the school law.

§ 3. *The Rise of The Labor Movement Results in a Demand For Better State Regulations.*—The rise of the labor movement following upon the panic tended to give to this educational movement a more industrial spirit, and in 1880 we find that the friends of the children have looked again to the law of 1848, providing for the education of youths in cotton and woolen manufactories. The amendment simply strengthened the old bill, but it is interesting to note that the secretary charged with copying the bill³ gives it the title, "An act to amend an act, Section 16, Chapter 48 of the Revised Statutes, relating to the employment of children in cotton and woolen mills." For the first time, the distinctly labor appeal for correctional legislation is clearly discernible. The bill provided for "the substitution for the word 'fifty' between the words 'forfeit' and 'dollars' on the third line the words 'one hundred' and for the word 'may' between the words 'committee' and 'inquire' in

¹ *Acts and Resolves, 1875*, items i, ii, iii, pp. 7-8.

² *Governor's Annual Message, 1878*, p. 21.

³ *Acts and Resolves, 1880*, chap. cci.

the sixth line and for the word 'is to' in the last line the word 'shall' so that the said section shall read as follows: "Any agent or superintendent of any factory for each violation of the provisions of the preceding section forfeits one hundred dollars, to be recovered by indictment, one half to the prosecutor, and the other to the town where the offence is committed, to be added to its school money. The superintending school committee shall inquire into such violations and report them to a County Attorney who on receipt thereof shall prosecute therefor.'" Thus by small degrees a more rigid law was being developed.

The next five years were years filled with much strife between capital and labor, which will be dealt with later in the discussion of the wage problem. Little or nothing was attempted in the children's legislation until the year 1885. In the annual message¹ of Governor Robie it is stated that "the employment of women and minors by our manufacturing corporations has created considerable criticism in consequence of the violation of the law restricting them each day to a limited period of labor, and I would suggest that the matter be sufficiently considered to the end that the law shall be rigidly enforced by additional amendments so that the hours be fixed for labor corresponding with the best interests of the laboring classes." That year three bills were introduced, none of which passed. They were all entitled "An act to regulate the hours of labor and employment in manufacturing establishments."² House Bill No. 132 applied only to minors, making fifteen years the period of limitation, but allowing employment of children between ten and fifteen who had a certificate of attendance at a public school for four months for each year preceding. It re-

¹ *Governor's Annual Message*, 1885, p. 42.

² *House Journal*, 1885.

stricted the number of hours to ten hours per day or sixty per week for children between ten and twelve, but permitted work after school hours for children over twelve. House Bill No. 131 was identical with No. 132, except that it provided that the ten-hour day or the sixty-hour week should apply to minors under eighteen and women. It provided for inspectors to be appointed on request, the penalty a fine between fifty and one hundred dollars, differing slightly from the preceding bill which had a fine of one hundred dollars. House Bill No. 11 was similar to this second, except that it provided that half the fines should go to the prosecutor and half to the town, and the town was to name constables or inspectors of manufacturing establishments and provide for their support, giving them full power to investigate. The failure of these bills was probably due to the strong opposition on the part of the manufacturers, who were attempting to restrain the ever-increasing demands of the labor movement.

§ 4. *State Regulations Result in 1887.*—This awakening found expression in the political campaigns of the next year, but we must defer the discussion of this topic until the following chapters. Suffice it to say that the movement which we have been tracing came to a head the next year, when the feeble attempts of the statisticians grew into a bureau of labor statistics and the labor movement brought about the establishment of a factory department, to enforce the State regulations in regard to the hours of labor and the employment of women and children, while even the educational acts were made to provide truant officers.

CHAPTER IV

ATTEMPTS TOWARD REGULATION OF WAGES

§ 1. *Knights of Labor*.—The constitution of the Knights of Labor, adopted in 1886, shows us the direction taken by the labor movement. The opening paragraphs read:

The alarming developments and aggressiveness of great capitalists and corporations, unless checked, will inevitably lead to the pauperization and hopeless degradation of the toiling masses.

It is imperative, if we desire to enjoy the full blessings of life, that a check be placed upon unjust accumulation, and the power for evil of aggressive wealth.

This much desired object can be accomplished only by the united efforts of those who obey the Divine injunction: "In the sweat of thy face shalt thou eat bread."

Therefore we have formed the order of the Knights of Labor, for the purpose of organizing and directing the power of the industrial masses, not as a political party, for it is more—in it are crystallized sentiments and measures for the benefit of the whole people.

Seven hundred thousand working-men¹ in 1886 accepted this constitution from which we have just quoted. Of these, seventeen² thousand were in Maine, thirteen thousand of whom had joined the Order of the Knights of Labor during the previous year. No wonder was it that an industrial

¹ Hollander and Barnett, *Studies in American Trade Unionism*, p. 378.

² *Report of Bureau of Industrial and Labor Statistics*, 1887, p. 157.

revolution was feared when a labor organization such as this was growing more powerful every day and each year the reforms demanded were growing in proportion. The cry of 'the greatest good for the greatest number' was being backed by the power of the strike and boycott. Not only political parties hurried to proclaim affiliation with the labor cause, but men were nominated on a platform of the order and elected to the legislature with the purpose of introducing there the reform measures of the platform of the organization. T. J. Lyons, a stone-cutter of Vinal Haven, a member of the Rock Bound Assembly of the Knights of Labor, was such a representative.

§ 2. *Strikes vs. Legislation.*—If the power to legislate had been the only power of this organization, maybe little legislation would have resulted, but since its organization in Philadelphia in 1869 by Uriah Stevens,¹ it had succeeded in using effectively the power of the strike and the boycott to enforce its demands. The report of the State statistician² for 1886 gives abundant testimony of the use of the strike in the order for the purpose of dictating wages and the closed shop. The Knights being in most cases not a trade organization but an assembly of workingmen of different trades, its power of boycott was immensely increased, so that in some cases they were able to demand that the rate of wages be submitted to the "arbitration and approval of the district committees," which on account of the rapid growth of the order, if nothing else, was a very precarious board of arbitration. Naturally many strikes occurred because of the refusal of the manufacturers to submit to this dictation, and probably the little that was received in increased wages did not equal the \$250,000 estimated by the

¹ *Report of Bureau of Industrial and Labor Statistics.* 1887, p. 156.

² *Statistics of Maine*, vol. iv, 1886, pp. 95-105.

state statistician as lost in wages by the laboring people on account of strikes.

Such conditions could not help but bring about a desire on the part of both employers and employees that some less warlike measures be taken to correct the evils. It was the demand of all parties that a definite bureau of labor statistics be organized similar to the one which had done so much work toward eradicating labor disputes in Massachusetts. The bill¹ for the purpose "was presented as a labor measure and its passage was urged by the labor organizations of the State, whose membership at that time numbered about 16,000, most of whom were enrolled in the Order of the Knights of Labor. Among the officers of each local assembly was designated a statistician, whose duty it was to collect from the members information relating to the industrial conditions surrounding their everyday life. By this means a record was kept of actual conditions applying to labor, wages, time work, causes for idleness, cost of living, etc. The object in doing this was to have at hand reliable information that could be used at any time as a barrier of defence when requiring of employers an increase of wages, reduction of hours of labor or other improvements in working conditions, and as a base for legislation when it shall be desired. It was intended that the State Bureau should work along these same lines, using the local statisticians as sources of information upon all subjects applying directly to labor conditions." The bill as presented by Mr. Lyons to the legislature was worked out by him, he tells us, to meet these conditions, and it is an interesting coincidence that it became his duty in 1907, as labor commissioner of the State, to develop the work planned by this bill. The act as approved was as follows:

¹ Com. Lyon's *Report of Bureau of Industrial and Labor Statistics*, 1907, p. 5.

Sec. 1. There is hereby established a separate and distinct department, which shall be called the Bureau of Industrial and Labor Statistics.

Sec. 2. It shall be the duty of this department to collect, assort, systematize, and present in annual reports to the governor, to be by him transmitted biennially to the legislature, statistical details, relating to all departments of labor in the state, especially in its relations to the commercial, industrial, social, educational and sanitary conditions of the laboring people; and to the permanent prosperity of the productive industries of the state, and also to inquire into the immediate causes of strikes, lock-outs or other disturbances of the relations between employers and employees.

Sec. 3. The governor shall, with the advice and consent of the council, appoint immediately after this act goes into effect, and thereafter biennially, on the first Wednesday in February, some suitable person, who is identified with the industrial and labor interests, and who shall be designated commissioner of industrial and labor statistics, with an office in such place as shall be designated by the governor.

Sec. 4. The commissioner herein named, shall receive an annual salary of fifteen hundred dollars, and to aid in carrying out the provisions of this act, said commissioner is hereby authorized to employ such assistance and incur such expense, not exceeding fifteen hundred dollars per annum, as shall be necessary to carry out the provisions of this act.

Sec. 5. The commissioner shall have power to take and preserve evidence, examine witnesses under oath, and administer the same, and in discharge of his duty, may enter any public institution of the state, and at reasonable hours when open for business, any factory, workshop, mine or other place where labor may be employed.

Sec. 6. All state, county, city and town officers, are hereby directed to furnish to said commissioner upon his request, all statistical information in reference to labor and labor industries, which shall be in their possession as such officers, and

said commissioner shall cause to be published and circulated in this state six thousand copies annually of the results of its labors, as to the objects for which commission is created.

The establishment of a bureau of labor statistics had gone beyond the period of experiment. Bureaus¹ had been established in Massachusetts in 1869, Pennsylvania 1872, Missouri 1876, Ohio 1877, New Jersey 1878, Illinois 1879, Indiana 1881, New York 1883, California 1883, Michigan 1883, Wisconsin 1883, Iowa 1884, Maryland 1884, Kansas 1885, Connecticut 1885, and coincident with the establishment of the Maine Bureau there were established Bureaus in North Carolina, Minnesota, Colorado and Rhode Island. Two years before the National Bureau had been started in Washington. The large number of Bureaus existing at this time made it especially desirable that Maine should have means of actually gaining knowledge of wages and other labor conditions existing in the State to compare with those of other States.

§ 3. *Legislation about Wages.*—The establishment of a statistical bureau for investigation of the problem of wages did not necessarily exhaust all the possible legislation on the subject. While the regulation of the amount of wages by legislation is unknown in this country, still it is possible to legislate as to the time of payment, the person to whom it shall be paid, the conditions under which part shall be forfeited for failure to live up to the contract, etc. The old English law went so far as to regulate the wage in certain trades, but in this country such legislation has been looked upon as dangerous to the spirit of democracy. By the year 1887 Maine had on her statute books a number of laws dealing with wages. They were for the most part feeble attempts to bring the common-law usage into line with the

¹ *Report of the Bureau of Industrial and Labor Statistics, 1887, p. 5.*

newer industrial development, and a résumé is at this time necessary to the understanding of the two bills that were introduced into the legislature of 1887.

§ 4. *Wages of Married Women.*—Wages of married women were first a matter of State legislation, as we have seen, in 1821, when a law in regard to foreign attachments was passed. (See page 124). There next developed the act which finally secured to “married women their right to property.” The laws of 1821, Chapter 57, Section 9, allowed women who were abandoned by their husbands to make contracts. The amendment of 1841 broadened this regulation to include wives of criminals, while the act of 1844, chapter 117, was entitled, “An act to secure to married women their rights in property.” In the Statutes of 1847, Chapter 27, and in 1848, Chapter 73; 1852, Chapter 227; 1855, Chapter 120; 1856, Chapter 250, the rights to possess and manage property were extended. By the statute of 1857, Chapter 59, married women were authorized to receive and sue for wages of personal labor performed for other than their own families. The statute has been amended by 1862, Chapter 148; 1863, Chapter 214; 1876, Chapter 112; 1883, Chapter 207; and 1889, Chapter 176, but the clause regarding wages remained as it was in the statutes of 1857, and it reads as follows: “She may receive the wages of her personal labor, not performed for her own family, maintain an action therefor in her own name and hold them in her own right against her husband or any other person.”¹

This development in the rights of women to declare their equality with men before the law was slow, but when we realize that it is one of the doctrines of the Knights of Labor to secure for both sexes equal pay for equal work and the demand for woman suffrage was not unknown to the

¹ 91 Maine, 552.

legislature of 1887, we may see how far beyond these laws the discussion had gone.

§ 5. *Payment of Wages*.—The right of all adults to receive their own wages was established when the laws for married women were passed. But there still remained the question of the time of payment, and the use of substitutes for cash. "A regular pay-day is quite a modern institution," a writer in 1890 tells us,¹ "and the experience of the past has led men to be cautious of letting it go by without receiving their money. Formerly, stores were run by many of the different firms in connection with their works, and pay-days were so far between that the help was obliged to trade at these stores and pay whatever was asked, the prices being in most cases higher than goods could be purchased for, had they their money to buy with. Finally the stores were closed up, and then the help had no protection at all, and many of the stone workers there today can show due bills for work done years ago that have never been paid."

Freund points out, in his "*Police Power*,"² "Two classes of provisions relating to the payment of wages may be distinguished, the one requiring payment at stated times or intervals, weekly, monthly, or semi-monthly, the other requiring payment of wages in cash." The conditions described were bettered by legislation, falling naturally under the head of the "fortnightly payment act," dealing with the time features, and the "truck" or "store" acts and "mechanics' liens," dealing with the failure to pay in cash.

§ 6. *Fortnightly Payment*.—The same legislature, 1887, which established the Bureau of Industrial and Labor Statistics passed a strong act³ regulating the time of pay-

¹ *Report of Bureau of Industrial and Labor Statistics*, 1890, p. 146.

² Ernest Freund, *Police Power*, p. 319.

³ *Laws of 1887*, chap. cxxxiv, pp. 1-5.

ment of wages and prescribing that they should be paid every two weeks.

Sec. 57. Every manufacturing, mining, quarrying, stone-cutting, mercantile, street railroad, telegraph, telephone and municipal corporation, and every incorporated express and water company, and any person or firm engaged in any of the above specified kinds of business, having in their employ more than ten persons, shall pay fortnightly each and every employee engaged in its business, except municipal officers whose services are paid for by the day, or teachers employed by municipal corporations, the wages earned by such employee to within eight days of the date of said payment, *provided, however*, that if at any time of payment, any employee shall be absent from his regular place of labor, he shall be entitled to said payment at any time thereafter on demand.

Sec. 58. Any corporation violating any provision of the preceding section shall be punished by a fine of not less than ten, nor more than twenty-five dollars on each complaint under which it is convicted, *provided*, that complaint for such violation is made within thirty days from the date thereof. When a corporation against which a complaint is so made, fails to appear after being duly served with process, its default shall be recorded, the allegations in the complaint taken to be true, and judgment rendered accordingly. When judgment is rendered upon any such complaint against a corporation, the court may issue a warrant of distress to compel the payment of the penalty prescribed by law, together with costs and interest.

This act does not provide for any means of enforcement, probably with an idea that the Knights of Labor would itself act as the inspecting and enforcing authority. It was not until 1893 that it was made the duty of the factory inspector to enforce this regulation.

The constitutionality of this act seems to have been taken for granted on account of the similarity to that of the

Massachusetts weekly payment law applying to all manufacturing which was held by the Supreme Court of Massachusetts to be constitutional in 163 Mass., 589. In Maine no attempt has been made by the factory department to bring any more than moral suasion to bear upon the violators of the act as we shall see later on. The enforcement of the regulation might mean the failure of the company and thus result in depriving the laborer of his occupation, which was not the intent of the law. In some states such legislation has been declared unconstitutional, but as yet no case has been taken to the United States Supreme Court. Mr. Freund believes it would be declared constitutional by that tribunal. He says,¹ "There is no reason to assume that the decision of the Federal Supreme Court in the matter of the truck legislation will not be followed if a weekly payment act should come before that tribunal, so that the Fourteenth Amendment will present no obstacle to legislation of this character."

The payment each fortnight is understood to be the full amount of wages due under the contract, but often it happens that the employee leaves before the end of the fortnight. In so doing, the question is raised as to whether or not wages shall be paid and what amount. The general factory act of 1887 contained a clause to provide for this contingency. It reads as follows:²

It shall be lawful for any person, firm or corporation engaged in any manufacturing or mechanical business, to contract with adult or minor employees to give one week's notice of intention on such employee's part, to quit such employment, under a penalty of forfeiture of one week's wages. In such case the employer shall be required to give a like notice of intention to

¹ Freund, *Police Power*, p. 320.

² *Laws of 1887*, chap. cxxxix, sec. 4.

discharge the employee; and on failure shall pay to such employee a sum equal to one week's wages. No such forfeiture shall be enforced when the leaving or discharge of the employee is for a reasonable cause, provided, however, the enforcement of the penalty aforesaid shall not prevent either party from recovering damages for a breach of the contract of hire.

This regulation tested before the Supreme Court of Maine in *Cote v. Bates Manufacturing Company*, Dec. 10th, 1897, (39 Atl. Rep. 280) in which the statute was upheld as to a case where notice was given. In the case of failure of either party to give notice, there should be no forfeiture and the employee was "entitled to receive amount due him when he quit work, for labor before then performed." The regulation does not hold against infants as they are "not liable for breach of contract for service," as decided in *Derocher v. Continental Mills*, (58 Me. 217).

If men are paid by the fortnight, the query naturally arises, what is a fortnight's work? First, it does not include work on Sunday. By the law of 1821 (see page 21) work on the Lord's Day is prohibited. In 1865 the law was amended to read: "Whoever, on the Lord's Day keeps open his shop, workhouse, warehouse, or place of business, travels or does any work, labor, or business on that day, except works of necessity or charity, uses any sport, game or recreation, or is present at any dancing, public diversity, show or entertainment, encouraging the same, shall be punished by fine not exceeding ten dollars." This has been upheld by numerous decisions. These decisions hold that the only labor which is legal is "walking for exercise in the open air with no purpose of pleasure." If it was done for either pleasure or pay it would be in violation of the Sunday law, *O'Connell v. City of Lewistown*, (65 Me. 34).

Overtime is not included in the fortnightly pay. The definition of overtime has been the cause for certain litigation in the courts in regard to the ten-hour legal day. In 1848 ten hours was made a legal day for all but monthly hirings and agricultural employments. Any time over the ten hours per day was to be on special contract and paid accordingly. The question raised is one of what shall be considered as a special contract. Work done after the completion of ten hours' labor by an employee at the request of the employer implies a promise of payment, (*Bachelor v. Beckford*, 62 Me. 526, Supreme Court of Maine, 1872) but where a laborer hires for a twelve-hour shift knowing it to be of twelve hours' duration and accepts his payment without claiming more, it is inferred that he agrees to work for the two hours extra at the stated wages. (*Fitzgerald v. International Paper Co.*, Feb. 28, 1902, Sup. Jud. Court of Maine, 52 Atl. Rep. 655).

§ 7. *Truck Acts*.—Though laws were passed as we have seen to regulate the time of payment, it was often uncertain as to how and to whom they were to be paid. The poor laborer was often embarrassed by many debts and would be forced to assign all his goods to a trustee. Sometimes he would assign his wages in advance to certain parties to avoid their recovery by still other parties. Naturally many abuses arose and in some cases where the assignment of wages was made to the employer as trustee and the wages were paid through a company supply store, a condition of peonage existed. In his message of 1887, Governor Bodwell called the attention of the legislature to the conditions existing.¹

I also recommend that trustee process so far as it relates to the wages of the laboring man be abolished. The undoubted

¹ Annual Message of Governor, *Public Documents*, 1887, p. 17.

result of these steps will be to curtail the credit of laboring men and to keep them from incurring obligations which readily absorb their earnings. It will force the relations between employer and the employed to a cash basis, and will largely benefit the laboring man by adding perceptibly to the value of his daily wages. It will, I think, be found that the saving resulting to the labor of the State for the cash basis will show in an addition to the aggregate deposits in the savings banks of the State. Imprisonment for debt and trustee process both being removed, the laborer is made a free man, with no unjust penalties menacing him and no one tempting him to incur needless debt.

The assignment of wages had been restricted by the act of 1876, which required the recording of such assignments. It reads: ¹

Sec. 1. No assignment of wages shall be valid against any other person than the party thereto unless such assignment is recorded by the clerk of the city, town or plantation, organized for any purpose, in which the assignor is commorant while earning such wages.

Sec. 2. The fee to be paid the clerk for any such record is twenty-five cents.

This provision applied only to cases where the whole sum to be received from the contract was not assigned (*Augur v. Couture*, 68 Me. 428). Also the assignment of transfer checks or coupons standing as wages need not be recorded, (*Stenson v. Caswell*, 71 Me. 510). The law was amended in 1897 making it more definite as to commorant, making the reading: ²

No assignment of wages is valid against any other person

¹ *Laws of 1876*, chap. xciii.

² *Laws of 1897*, chap. ccci.

than the parties thereto unless such assignment is recorded by the clerk of the town in which the assignor is commorant while earning such wages; and if said assignor is commorant in an unorganized place while earning such wages, said assignment shall not be valid against any other person than the parties thereto unless said assignment is recorded by the clerk of the oldest adjoining town, *provided* that there be an incorporated town adjoining such unincorporated place, and if there be no such adjoining town such assignment shall be recorded in the office of the register of deeds for the registry district in which said unincorporated place is located. No such assignment of wages shall be valid against the employer unless he has actual notice thereof.

This act was still further amended in certain details by the act of 1907.¹

The recording of assignment was a step in the right direction but it was greatly strengthened by the act of 1877² amending the act of 1854³ which provided that no employer could be appointed a trustee for more than twenty dollars. It reads:

No person shall be adjudged trustee by reason of any amount due from him to the principal defendant, as wages for his personal labor, or that of his wife or minor children, for a time not exceeding one month next preceding the service of the process, and not exceeding twenty dollars of the amount due to him as wages for his personal labor; and this is not exempt in any suit for taxes or for necessities furnished him or his family; moreover, wages of minor children and of women, are not, in any case, subject to trustee process on account of any debt of parent or husband.

¹ *Laws of 1907*, chap. cccvi.

² *Laws of 1877*, chap. ccx.

³ *Laws of 1854*, chap. lxxxv.

It will easily be seen that these provisions permit assignment of wages "to be earned under existing contracts," (Wade v. Bessing, 76 Me. 413; Haynes v. Thompson, 80 Me. 125) but when the assignment is once made for the wages due the laborer at the end of the month and the employer is duly notified to hold said wages, it is not possible for the creditor to further proceed against the next month's wages. (Collins v. Chase, 71 Me. 435). Further protection to wages was given by the act of 1897 which states those things which cannot be seized when an attachment is made. It reads: ¹

Nor shall the amount due him as wages for his personal labor for a time not exceeding one month next preceeding the service of the process, and not exceeding twenty dollars, be liable to attachment on any trustee process in a suit brought against him upon any debt contracted prior to said time.

It was not until Maine abolished imprisonment for debt in 1889 that labor was free from the oppression of the creditor and the evils of the trade store were done away with by the combined effect of these laws and the fortnightly payment act. The finding ² of the U. S. Supreme Court that truck acts applying to all employees are constitutional places such legislation on a sound basis.

§ 8. *Mechanics Lien*.—It often happens that the employer instead of the employee is forced to assign or dies and his estate is in the hands of executors. In such a case there are almost always certain employees whose wages are not paid. Since the first regulation of "foreign attachment" in 1821 these wages have been a prior claim. In 1878 ³

¹ *Revised Statutes*, 1903, chap. lxxii, sec. 68.

² U. S. Knoxville Iron Co. vs. Harbiser, 183 U. S. 13.

³ *Laws of 1878*, chap. lxxiv, sec. 36.

and again in 1879¹ the insolvent laws were revised to read that "in making a dividend under the preceeding section (Sec. 34, insolvent laws) the following claims shall first be paid in full: 1.*** 2.*** 3. Wages due any operative, clerk or house servant, not exceeding \$50, for labor performed within six months preceeding the filing of the petition."

This "wages preferred" provision remained unchanged during the revision of the insolvency laws in 1883² and 1897.³ Complications have arisen under the provisions and the courts have laid down certain rulings. After men work on a building constructed with borrowed money, in case of failure of the contractor to pay, the building can be held by the workmen against the owner. (*Johnson v. Pike*, 35 Me. 291). Stipulations against such a lien in the contract between the contractor and owner are no bar to the collection of this by the laborer, (*Norton v. Clark*, 85 Me. 357) but such a lien must be filed within thirty days of the attachment (*Cole v. Clark*, 85 Me. 336) which must be enforced within ninety days. (*Johnson v. Pike*, 35 Me. 291).

Such provisions protected the laborer from loss as well as fraud and deception. The development of the mechanics lien extended all employees control over the product, while the limiting of the truck stores decreased the control of the employee by the employer, the fortnightly payment tended to decrease the need for either the lien or the truck act. So in its passage the legislature of 1887 made a decided step forward in the legislation designed to meet all problems arising from the payment of wages.

¹ *Laws of 1879*, chap. cliv, sec. 15.

² *Laws of 1883*, chap. cccxiv, sec. 1.

³ *Laws of 1897*, chap. cccxxv, p. 6.

CHAPTER V

GENERAL FACTORY ACTS, 1887

§ 1. *The Progress of The Ten Hour Movement During 1886.*—In the last two chapters we have seen something of the labor movement, and we have seen certain results it accomplished in regard to securing compulsory education and the adjustment of wages, but it was in regard to the hours of labor that it accomplished most.

Legislation must have public opinion to support it. All legislation should be preceded by a period of education during which the people of a state are brought to realize the needs of such legislation. The year 1886 was such a time in the struggle for shorter hours of labor. The Secretary of State, Oramandal Smith, thus describes it:¹

The ten-hour movement has made considerable progress throughout the State during the year. No cotton manufactories have yet made any change in the length of a day's work, but a large number of woolen manufacturers have done so, and from the present appearances there will hardly be a woolen mill in the State a year from now that will require more than ten hours for a day's work. This reduction of the hours of labor has not been followed by any reduction in the wages paid employees, so that the advantage gained by the movement has been in favor of the laboring class. In some cases, possibly, where employees work by the piece, a little less money may be earned than previously, as it is quite impracticable to speed up the machinery of the woolen mills so as to accomplish any more than the same proportion of work to the

¹ *Statistics of the Industries of Maine*, vol. iv, 1886, pp. 7-8.

length of a day's labor that has heretofore prevailed. The laboring people are, however, gainers in the extra opportunity that has thus been given them for rest and personal improvement. Maine, with its few large cities and the scattered locations of its manufacturing business, is better adapted for the adoption of a short day's work without injury to the laboring people than is the case in some States. The point to be gained, in reducing a day's labor from eleven to ten or eight hours, is two-fold: first, the limitation of production to the demands of the markets, thereby ensuring more continuous work than sometimes prevails; and second, securing to labor a better opportunity for rest that there may be more progress made in personal improvement. The tendency of the past quarter of a century has been toward a reduction in the length of a day's work, and the present condition of things is the result of little, if any, legislation. It has thus far seemed to be a question that has settled itself, and an amicable adjustment of such matters is better for the State than if accomplished by compulsory legislation.

That manufacturers are becoming more awake to the needs of their employees is evidenced by the action of the York Manufacturing Company of Saco and the Sanford Mills of Sanford in establishing and supporting private schools for the education of the children employed in their mills. The laws of the State provide that children shall not be employed in manufacturing establishments without they have attended school a certain number of weeks during the year. The law is difficult of enforcement and too often manufacturers are innocent violators of its provisions. The method adopted by these two corporations will enable them to retain their regular employees, and yet compel them to observe the law to their own personal advantage and the general good of the State.

§ 2. *The Need of Legislation.* — Oramandel Smith also ably summarizes the conditions which made further legislation desirable:¹

¹ *Statistics of the Industries of Maine*, vol. iv, 1886, pp. 120-121.

During the last session of the Legislature an attempt was made to secure the enactment of more restrictive legislation regarding the length of a day's work, and the employment of women and minors. Although considerable time was spent by the Judiciary Committee in perfecting the bill, and by the Legislature in a discussion of the merits of the same, no changes were made in the present statute. The present law is pretty comprehensive, and if properly enforced will be found more restrictive than any legislation now existing in the majority of the States. By chapter 82, section 43, page 700 of the Revised Statutes, ten hours of actual labor is made a legal day's work, except in monthly work, or when a longer time is stipulated, or in agricultural employment. By chapter 48, sections 13, 14 and 15, page 439, Revised Statutes, being acts of 1880, chapter 221, no child can be employed in a cotton or woollen factory without attending a public or private school for four months during the year preceding employment, if under 12 years of age, and for three months if between 12 and 15 years of age, the necessary evidence of such schooling being a teacher's certificate made under oath and filed with the employer. Violation on part of employer subjects him to a fine of \$100, half to informer and half to town school fund. No one under sixteen years of age shall be employed over ten hours a day. Violation subjects employer to a fine of \$100, half to employee and half to town.

This statute allows corporations to contract with their employees for any length of a day's work desired, and it is in this way that various establishments are now operated more than ten hours per day. By such arrangements the present statute loses its force, because corporations or other employers may refuse to employ any person refusing to labor as many hours per day as may be desired, and by such discrimination the laboring people may fail to obtain the benefit that the enactment of the law was intended to convey. In Massachusetts the law is more restrictive than in almost any other State,

and the legislation sought in this State in 1885 was, to a certain extent, the enactment of the Massachusetts statute that the laboring people of Maine might have the same advantages as their Massachusetts brethren. It is urged by manufacturers that to forbid them from contracting with their employees for extra hours' work is to discriminate against the industries of the State, and will prevent many of them from taking contracts that might otherwise be secured. Very few mills can be speeded higher than at present, and, therefore, not so much work can be performed, however willing employees may be to accomplish as much in ten hours as they now do in a day of eleven hours. The enactment of a law that will prevent the operation of manufactories more than ten hours per day will thus prevent the laboring people from earning as much where they work by the piece as they do now. As an offset to this loss, those favoring the law claim that it is in the interest of humanity because it will prevent the compulsion of laboring people to work more than what constitutes a legal day's work, and because it will enable the laboring people to devote more time to their own improvement.

But the labor movement did not leave it to statisticians to alone champion the cause. It entered into the field of politics, and the platforms of both political parties told how much power was brought to bear. The platform¹ adopted at the Democratic State Convention at Bangor, June 2d, after indorsing President Cleveland's administration, goes on to say, "Resolved, that the Democratic party, as in the past, so in the present, is the friend of labor and the laboring man, and sympathizes with labor in the impending struggle for its rights against aggressive capital and associated wealth; that it is in favor of all legislation which will tend to an equitable distribution of property, to the prevention of monopoly and to strict enforcement of individual right

¹ *Eastern Argus* (June 8, 1886).

against corporate abuses, and especially favor the enactment by which labor associations may be organized for arbitration of all differences between employed and employer; for establishment of co-operative institutions; for introduction of a co-operative industrial system; for the establishing of a national bureau of labor, for reserving what is left of the public domain for actual settlers, that the land of the people may be held by the many and not the few, for the abolition of that relic of barbarism, imprisonment for debt, for the repeal of the odious trustee process by which a heartless creditor may snatch the wages of a laborer from the hands of his employer before it can be converted into bread for his wife and children. Resolved, that we oppose the system of long hours of labor in many factories of this State and favor the enactment of a uniform ten-hour law."

The Republican Convention of June 10,¹ at Lewiston, among the planks of the platform, adopted the following:

Resolved, that labor and capital must be at harmony to insure the prosperity of either. . . . Resolved, that in the judgment of this Convention, no manufacturing establishment in Maine should extend the length of a day's labor beyond ten hours. Resolved, that the Convention recommend that the next Legislature of this State shall enact a law prescribing fifteen years as the earliest age at which children may be regularly employed in factories or some kindred law calculated to guard and protect youth of tender years. Earlier employment of that kind interferes with the growth and health and deprives the children of proper opportunity of acquiring an education in the public schools. Resolved, that we recommend to the next Legislature a careful revision of the labor systems in the prisons, to the end that the labor of convicts be so adjusted as not to come in competition with the honest calling of any citizen of the State.

¹ *Portland Daily Press* (June 10, 1886).

The *Eastern Argus*,¹ the Democratic paper, the next morning speaks of the labor resolutions and says that delegate "Peakes of Dover objects to the 'ten-hour foolishness' but was told that it was a compromise 'and did not commit anybody to anything.'" Whether this jibe was true or false it is of note that at that convention Mr. Bodwell was nominated for Governor by S. W. Matthews, who was later appointed Commissioner of Industrial and Labor Statistics after Mr. Bodwell was elected governor.

It is very evident that the two parties were trying to outdo each other to secure the labor vote, and that it was the intention of the Democratic party to hold the Republican party responsible for the failure of earlier legislation. A despatch from Bangor, published on June 2d, some days before the convention, says, "The labor movement will be heartily endorsed and legislative action in its aid invoked. The Republican party will be arraigned for importing pauper labor from Europe to supplant laboring men. McGillicuddy's labor bill will be reaffirmed and the Republican legislature of 1885 censured for its rejection."

The election of Mr. Bodwell as Governor was followed by a message to the legislature in which he speaks in no uncertain way as to its duties toward the laboring people. After speaking of the trustee process in the eloquent paragraph quoted in the preceding chapter, he says:²

There is reason to believe that abuses occur in permitting children of too tender age to work in our factories. This should be prohibited by law. I recommend that children shall not be admitted to work in factories before the age of fifteen years. This will give time for strength and growth, and also for acquiring the rudiments of a good education. In this

¹ *Eastern Argus*, June 12, 1886.

² *Governor's Annual Message*, 1887, p. 17.

matter, the parents who seek work for their children are as often to blame as the employers in factories, and the penalty adopted should be made to apply to whichever is the offending party. A special penalty should be attached to the offence of misrepresenting the age of the child.

I recommend, further, that labor in all corporations in the State be absolutely restricted by law to ten hours a day, and that a day's labor outside of corporations shall always be left, as now defined by statute, at ten hours. If a day's labor be less or more than that, it must be by virtue of a special contract between the parties, and be regulated by the hour. The multiplication of machinery and the great addition to the power of manufacturing, ought naturally to be followed by some amelioration in the hours of labor. The length of a day's work might be, even now, further reduced, if the wants of the people did not multiply in equal ratio with the facilities for gratifying them. If men with the earnings of to-day should live after the manner of forty or fifty years ago, a large surplus would result from daily wages; but as wants multiply additional means are required. It is, however, a satisfaction to believe that the tendency is in the right direction, and that the average wages of workingmen throughout the United States, reckoned in coin and measured by their ability to purchase the necessities and luxuries of life, are larger than they have ever before been in any period of our history, while at the same time the average hours of labor are shorter.

§ 3. *The Legislature of 1887.*—At this session a "Committee on Labor" was for the first time established in the legislature of Maine. Charles E. Littlefield was then speaker of the House and appointed the committee. The first bill¹ introduced in the Senate was to regulate the work of children, making a minimum age of twelve years and providing for a commissioner and deputies to enforce the

¹ Senate Bill no. i. *Senate Journal*, 1887.

act. The Lyons Bureau bill ¹ was also introduced. H. M. Heath on January 24th introduced a radical child-labor bill ² by which no child under fifteen years of age could be employed in any factory or mechanical establishment in the State, and a commissioner of labor was to be elected by the people within thirty days of the enactment of the bill. On February 17th the Committee on Labor, of which W. H. Looney, of Portland, was House chairman, reported favorably on a substitute bill to regulate the hours of labor of women and children which became known as the Looney Bill. This bill provided for the ten-hour day for boys under sixteen and girls under eighteen, and placed the minimum age of employment at twelve. It provided for a single commissioner, instead of two, for this bureau and the bureau of statistics, giving him supervision over the enforcement of the law. This provision was finally amended ³ so as to appoint a deputy commissioner to work under the commissioner appointed for the bureau of industrial and labor statistics. A further radical amendment ⁴ was passed in the Senate, but lost in the House. This amendment provided that no child under fifteen years of age could be employed in any factory or mechanical establishment except when the public day schools in the city, town or school district he resides in were not in session. If this amendment could have been passed, it would have given a law equal in its strictness in regard to factory children with the compulsory education law of 1898. The amended law had the active support of those who feared the more radical measures of the Heath Bill, and it is said that it was voted for

¹ House Bill no. ix. *House Journal*, 1887.

² Senate Bill no. xi. *Senate Journal*, 1887.

³ *Ibid.*, p. 296.

⁴ *Leg. Documents*, 1887, Bill no. clx, Amendment K.

by all those members of the legislature who "always opposed labor legislation." It was passed by a vote of 20 to 8 on March 15th. The bill read as follows:¹

Sec. 1. No female minor under eighteen years of age, no male minor under sixteen years of age, and no woman shall be employed in laboring in any manufacturing or mechanical establishment in the state, more than ten hours in any one day, except when it is necessary to make repairs to prevent the interruption of the ordinary running of the machinery, or when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week; and in no case shall the hours of labor exceed sixty in a week; and no male person sixteen years and over shall be so employed as above, more than ten hours a day during minority, unless he voluntarily contracts to do so with the consent of his parents, or one of them, if any, or guardian, and in such case he shall receive extra compensation for his services; *provided, however*, any female of eighteen years of age or over, may lawfully contract for such labor for any number of hours in excess of ten hours a day, not exceeding six hours in any one week or sixty hours in any one year, receiving additional compensation therefor; but during her minority, the consent of her parents, or one of them, or guardian, shall first be obtained.

Sec. 2. Every employer shall post in a conspicuous place in every room where such persons are employed, a notice printed in plain, large type, stating the number of hours' work required of them on each day of the week, the exact time for commencing work in the morning, stopping at noon for dinner, commencing after dinner and stopping at night; the form of such printed notice shall be furnished by the deputy commissioner of labor hereafter named, and shall be approved by the attorney general; and the employment of any such person for a longer time in any day than that so stated, shall be deemed a violation of section one, unless it appears

¹ *Laws of 1887*, chap. cxxxix.

that such employment is to make up for time lost on some previous day of the same week, in consequence of the stopping of machinery upon which such person was employed or dependent for employment.

Sec. 3. Whoever, either for himself, or as superintendent, overseer or agent for another, employs or has in his employment any person in violation of the provisions of section one, and every parent or guardian who permits any minor to be so employed, shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars for each offense. A certificate of the age of a minor made by him and by his parent or guardian at the time of his employment, shall be conclusive evidence of his age in behalf of the hirer, upon any prosecution for a violation of the provisions of section one. Whoever falsely makes and utters such a certificate with an intention to evade the provisions of this act, shall be subject to a fine of one hundred dollars.

Sec. 4. It shall be lawful for any person, firm or corporation engaged in any manufacturing or mechanical business, to contract with adult or minor employees to give one week's notice of intention on such employee's part, to quit such employment under a penalty of forfeiture of one week's wages. In such case, the employer shall be required to give a like notice of intention to discharge the employee; and on failure, shall pay to such employee, a sum equal to one week's wages. No such forfeiture shall be enforced when the leaving or discharge of the employee is for a reasonable cause; *provided, however*, the enforcement of the penalty aforesaid, shall not prevent either party from recovering damages for a breach of the contract of hire.

Sec. 5. No child under twelve years of age, shall be employed in any manufacturing or mechanical establishment in this state. Whoever, either for himself, or as superintendent, overseer or agent of another, employs or has in his employment any child in violation of the provisions of this section, and every parent or guardian who permits any child to be so

employed, shall be punished by a fine of not less than twenty-five nor more than fifty dollars for each offense.

Sec. 6. No child under fifteen years of age shall be employed in any manufacturing or mechanical establishment in this state, except during vacations of the public schools in the city or town in which he resides, unless during the year next preceding the time of such employment, he has for at least sixteen weeks attended some public or private school, eight weeks of which shall be continuous; nor shall such employment continue unless such child in each and every year, attends some public or private school for at least sixteen weeks, and no child shall be so employed who does not present a certificate made under or by the direction of the school committee, superintendent of the public schools, or the teacher of a private school, that such child has so attended school. And it shall be the duty of such committee, superintendent or teacher, to furnish such a certificate in accordance with the fact upon request and without charge; *provided*, that this section shall not take effect until January one, eighteen hundred and eighty-eight.

Sec. 7. Any parent or guardian who procures a child to be employed contrary to section six, and any corporation, owner, superintendent or agent of the owner, of such establishment violating the provisions of said section, shall forfeit the sum of one hundred dollars, one-half to the use of the county, and one-half to the use of the city or town where the offense is committed. Money so recovered to the use of the city or town, shall be added to its school money. It shall be the duties of the school committees and superintendent of public schools, to inquire into violations of said section, and report the same to the county attorney, who shall prosecute therefor.

Sec. 8. Every owner, superintendent or overseer of any such manufacturing or mechanical establishment shall require and keep on file, a certificate of the age and place of birth of every child under sixteen years of age employed therein, so long as such child is so employed, which certificate shall also

state in the case of a child under fifteen years of age, the amount of his school attendance during the year next preceding such employment. Said certificate shall be signed by a member of the school committee of the place where such attendance has been had, or by some one authorized by such committee, and the form of said certificate shall be furnished by the state superintendent of schools, and shall be approved by the attorney general. The deputy commissioner of labor hereinafter named or either of his assistants, may demand the names of the children under sixteen years employed in such establishment, in the several cities and towns of the state, and may require that the certificates of age and school attendance prescribed in this section, shall be produced for his inspection, and a failure to produce the same shall be *prima facie* evidence that the employment of such child is illegal.

Sec. 9. The governor, by and with the advice and consent of the council, shall appoint a deputy commissioner of labor, at a salary of one thousand dollars a year, who shall hold office for two years, or until his successor is appointed, unless sooner removed. It shall be the duty of the deputy commissioner of labor to inquire into any violations of this act, and also to assist in the collection of statistics and other information which may be required, for the use of the bureau of industrial and labor statistics. And said deputy commissioner shall, in addition to his salary provided by law, be allowed his reasonable expenses. Whenever the governor of this state shall be satisfied that the deputy commissioner of labor cannot perform all the duties of his said office required by this section, in person, he shall, with the advice and consent of the council, appoint a sufficient number of assistant deputies to assist him in so doing. Said assistants shall hold their office for the term of two years, and act under the direction of said deputy commissioner of labor, and shall receive the sum of two dollars per day and reasonable expenses while actually engaged in duty. Said assistants may, at any time, be removed for cause by the governor. All bills for the expenses of the deputy com-

missioner of labor and for the services and expenses of such assistant deputies, shall be audited by the council. For the purpose of inquiring into any violation of the provisions of this act, and enforcing the penalties thereof, such deputy commissioner and assistants may, at all reasonable times, enter any manufacturing or mechanical establishment and make investigation concerning such violations. Such investigation shall be conducted with as little interruption as possible to the prosecution of the business of such establishment. Whoever interferes with said deputy commissioner or his assistants, in the performance of their duties as prescribed in this act, shall be fined fifty dollars.

Sec. 10. Nothing in this act shall apply to any manufacturing establishment or business, the materials and product of which are perishable, and require immediate labor thereon, to prevent decay thereof or damage thereto.

This act of 1887 was a comprehensive act and provided for inspection. By this act Maine put herself on record as one of the most progressive states and was the sixth state to pass such legislation. She was preceded by Massachusetts in 1882, Wisconsin and Ohio in 1885, and New York and New Jersey in 1886. The practical workings of the bill we will leave for discussion in the following chapter.

§ 4. *Safety Appliances on Boilers.*—The year 1887 added one other act which had a direct bearing upon the safety of the factories. It dealt with the question of boilers. As early as 1850 an act had been passed to prevent the “explosion of steam boilers.” This act dealt with the regulation of safety plugs. In 1858 this act was amended with more definite specifications as to the safety devices required on the boilers. The act of 1887 made the directions still more specific. The act ¹ reads as follows:

¹ *Laws of 1887*, chap. xlix.

No person or corporation shall manufacture, sell, use, or cause to be used, except as hereinafter provided, any steam boiler in this state unless it is provided with a fusible safety-plug, made of lead for boilers carrying a steam pressure above fifty pounds per square inch, and of tin for boilers carrying steam pressure of fifty pounds and less per square inch, and said safety plug shall be not less than one-half inch in diameter, and shall be placed in the roof of the fire-box when a fire-box is used, and in all cases shall be placed in the part of the boiler fully exposed to the action of the fire, and as near the surface line of the water as good judgment shall dictate, excepting in cases of upright tubular boilers, when the upper tube sheet is placed above the surface line of the water, which class of boilers shall be exempted from the provisions of this section.

If any person without just and proper cause removes from the boiler the safety plug, or substitutes any material more capable of resisting the action of the fire, or if any person or corporation uses or causes to be used, for six consecutive days, or manufactures or sells a steam boiler of a class not exempted from the provisions of the preceding section, unprovided with such safety fusible plug, such offender shall be fined not exceeding one thousand dollars.

The regulation of safety appliances on boilers was a matter of some litigation in the courts. A steam engine is not *per se* a nuisance (Brightman v. Bristol, 65 Me., 426), but a stationary steam engine without a license is a nuisance, although damages from fire are not recoverable (Burbank v. Bethel S. M. Co., 75 Me., 373). An engine in proper place and properly constructed is not a nuisance as a matter of law (75 Me., 373). The duty of enforcement has caused much trouble to many of the factory inspectors.

§ 5. *Attendance Laws*.—It is not unnatural that this labor movement should be coincident with the establishment of the educational movement for the first time on an ade-

quate basis. In 1887 a strict compulsory attendance and truant law ¹ was enacted. The law required that children between the ages of eight and fifteen should attend school for fifteen weeks with a penalty for neglect, from ten to fifty dollars, but the feature which had been omitted for so long and had caused the failure in enforcement of so many compulsory education acts was this time included. Truant officers were required to be elected by the cities and towns. It was thus for the first time that a broad preventive measure adequate to protect all the children of the community found a permanent place on the statute books of the State.

A newspaper writer ² of the time who complained that "the tendency of the past twenty-five years has been to place government further from the people," shows how hard it is to read history aright from the signs of the times.

¹ *Laws of 1887.*

² *Kennebec Journal* (July 4, 1887), "Civics in Public Schools."

CHAPTER VI

EXPANSION OF FACTORY LEGISLATION. (1887-1904)

§ 1. *The Bureau of Statistics and Inspection.*—The act of the legislature establishing a Bureau of Industrial and Labor Statistics was approved March 7, 1887, and on May 17th S. W. Matthews was appointed commissioner. On July 8th L. R. Campbell was appointed and qualified as deputy commissioner. By some confusion the office of the inspector who was to enforce the factory legislation was only nominally incorporated as a part of the Bureau of Statistics. This was in no wise the intention of the introducer of the bill, Mr. Lyons, and immediately upon its passage the fallacy of the situation presented itself. Commissioner Matthews in his first annual report¹ complained bitterly of the “misapprehension” as to the work of his department, and tells how much trouble has been caused by referring to him what was distinctly the work of Mr. Campbell. This confusion was enhanced by the location of the office of the Commissioner of Industrial and Labor Statistics in the State House at Augusta, while the Deputy Commissioner, not having been provided with any office or headquarters, took up his official residence at Rockland. Mr. Matthews wisely took upon himself to become acquainted with the work of other bureaus in the country and attended the Fifth Annual Convention of Chiefs and Commissioners of the Bureaus of Statistics and Labor. Mr.

¹ *Report of Bureau of Industrial and Labor Statistics, 1887, p. 2.*

Campbell proceeded to organize his department by issuing a form of printed notice to manufacturers which had been approved by Attorney-General O. D. Baker. He spent much time in familiarizing himself with the conditions in regard to the ten-hour day and the twelve-year limit. "With but few exceptions," the deputy commissioner found¹ "a general observance of the act." "The ten-hour law seems to be generally satisfactory to all concerned. Occasionally a piece worker stated that he would like to go back to the old state of things. Several managers of cotton mills said that their production was as large under the ten as under the eleven hour arrangement. This of course implied that they had improved machinery, the speed had been increased and that no waste of time was allowed." In regard to child labor he says, "It is impossible to obtain correct information as to the number of children under twelve years of age employed in the mills and workshops before July 1st, 1887, at which time the law went into effect, but it is universally acknowledged by persons well able to judge that the enforcement of the law has done much to keep children under twelve years of age out of the mills and shops." The regulations in regard to school attendance did not take effect until January 1, 1888, before which time Mr. Campbell had succeeded in notifying the mills and workshops of the arrangement and having them ready to comply with the law.

§ 2. *Labor Aids Enforcement.*—In these early days of enforcement the labor organizations were a great advantage as auxiliaries to the officials of the department. "In carrying on the work," says Labor Commissioner Matthews, "in which I am engaged, I have found labor organizations of great service in enabling me to reach the laborers as I could

¹ *Report of Bureau of Industrial and Labor Statistics, 1887, p. 219.*

not otherwise have done. In short I have come to believe that the solution of the problem lies in evolution rather than revolution."

§ 3. *Some Faults in The Laws.*—The first investigation of the labor conditions of the State was now possible, and during the year 1888 the deputy commissioner was engaged in this work. Unfortunately his report deals more with impressions than with exact data, but considerable light is thrown upon the difficulties of enforcing these laws. In speaking of the ten-hour law, he says: ¹

After a year's trial and investigation, your deputy commissioner is of the opinion that the extra sixty-hour clause should be struck out of the law, as it furnishes to the piece-workers and manufacturers a chance to violate the law, and when caught at work longer than the time-table gives, will fall back on the excuse, "I am working on my extra sixty hours." That the law may be carried out more effectually, your deputy would recommend that a law be passed whereby in every manufacturing and mechanical establishment a certain number of minutes be allowed to start their work before the time designated in their time-table.

Speaking of the employment of children since the passage of the law, he tells us, ² "the benefits resulting are seen in every manufacturing city and village in our State. It has given me a great deal of pleasure, in the enforcement of this law, to find that the public are in full and hearty accord with the law; also agents and overseers in the mills have told me that at first the law caused them a great deal of trouble, but that when it got regulated it would work well, and that they were in favor of its enforcement." In

¹ *Report of Bureau of Industrial and Labor Statistics, 1888, p. 9.*

² *Ibid.*

this report we see that the inspector first met with the problem of false certificates which has troubled every inspector since his day. He says:¹ "No doubt there are children working in our factories under age, whose certificates were falsified by their parents. A great number of children employed in the State in factories and workshops are of foreign birth, and even when the children are born in the State, it is extremely difficult to obtain any facts regarding the date of their birth, excepting when they are baptized in some church. It is hoped that our State will use more effective machinery for registering births."

Despite the defects in the laws many children were returned to the public schools during 1888. Auburn reported an increase of 5%, Lisbon 10%, Westbrook 5% and Lewiston 10%. Portland had no mills, so shows no increase. In Brunswick and Biddeford the parochials received the children. There remained in the mills some 461 children from twelve to fifteen, or 2½% of the operatives.²

§ 4. *Failure of School Authorities to Coöperate.*—Another difficulty of the law met by the deputy commissioner in his first year of inspection was the still difficult problem of correlation of his work with that of the school department. He complains most bitterly that the local school authorities who have charge of the placing in school of children he removes from the factories do not do the work required of them by law. The result is "when children, in a great many cases are sent out of the mills to attend school they play truant in the street, or apply at another factory for work. To avoid this, the manufacturers in Lewiston notify each other of any discharge of children who are under the legal age and are required to attend school."³

¹ *Report of Bureau of Industrial and Labor Statistics*, 1888, p. 10.

² *Ibid.*, p. 162.

³ *Ibid.*, pp. 11-12.

A careful investigation ¹ of women's work was also made that year by Mrs. Flora E. Haines, a special agent of the Bureau. Her description of the condition of the women in the cotton mills shows the sixty-hour law enforced and the general conditions above the average. It is of interest to note that the York Mills, which in early times (1841) had taken an interest in its young help, boasted of "a school for its youngest girls during two hours in the forenoon and two hours in the afternoon." ²

§ 5. *Bureau vs. Factory Department.*—The success of the Bureau during the first year is shown by the annual message of Governor Burleigh. He says: ³ "The Labor Bureau, which was established at the last legislature has done a valuable work for the State as the report of the Commissioner well demonstrates. I suggest that the State may with great profit give a wider scope for the operations of the Bureau." The Governor's suggestion was followed out by the next legislature which increased the appropriations for the Bureau from five to six thousand and ordered that ten thousand copies instead of six thousand of the report be printed. This appropriation made it possible for the Bureau to add a special agent, Mr. T. J. Lyons, to its staff. The annual report of the Bureau ⁴ would suggest that Deputy-Commissioner Campbell had also been put to work on statistics, for during the year he complied with the legal requirement imposed upon him, "to assist in the collection of statistics and other information which may be required for the use of the Bureau of Industrial and Labor Statistics," but as he makes no report for this second year as to

¹ *Report of Bureau of Industrial and Labor Statistics, 1888*, pp. 114-148.

² *Ibid.*, p. 117.

³ Annual Message of Governor, p. 15, *Public Documents, 1889*.

⁴ *Report of Bureau of Industrial and Labor Statistics, 1889*, p. 5.

factory inspection it is not to be wondered at that a bill was introduced that year to abolish Mr. Campbell's office. The appeal for the factory children made at the hearing defeated the measure.

The same legislature passed three other bills affecting labor. One of these was the conspiracy act. It is stated that there was an agreement reached between the conservatives and radicals which provided that the Looney labor bill, the Lyons bureau bill, the Noble fortnightly bill and several other lesser labor measures should be passed in 1887, if an act of conspiracy was also allowed to pass. This act was very strongly opposed by the labor men at whose organization it was directed, but the compromise had to be made. The act ¹ reads as follows:

Whoever by threat, intimidation or force, alone or in combination with others, prevents any person from entering into or continuing in the employment of any person, firm or corporation shall be punished by imprisonment for not more than two years or by fine not exceeding five hundred dollars.

This law caused a great falling-off in the ranks of the Knights of Labor on account of the dangers of being involved in a conspiracy. The whole power of the labor forces was exerted to agitate for its repeal.

Another bill passed at this time ² was an act to abolish imprisonment for debt except in case of fraud. It provided the working man an opportunity to assign the bills he had to a trustee and begin again without going to jail while his family was left to the town to support.

The same year a bill ³ was introduced and passed to "pro-

¹ *Laws of 1889*, chap. ccciii, p. 267.

² *Report of Bureau of Industrial and Labor Statistics*, 1889, p. 139.

³ *Laws of 1889*, chap. ccxiii.

vide against the danger of spread of smallpox in paper mills." It was a general health regulation and provided more for the safety of the general community than the employees of the factory.

The commissioner assigned the deputy the special duty for the year 1890 of inquiring into the violation of the regulations of the hours of women and children. The investigation¹ showed that the ten-hour law was working well and seemed to be satisfactory, but the increase in the number of accidents made imperative their registration and the regulation by law of the age of those who were to engage in the cleaning of machinery. The danger of fire was also great. The investigation tended to show the need of having the power of enforcement given to the factory inspector instead of being left in the hands of town officers and "fire engineers."

The opening of the legislature in 1891 had the problem of the extension of the factory department placed before it by the Governor's message² and several bills were immediately introduced to follow out some of the suggestions of the deputy commissioner. A provision was made by the "act"³ to give the right of action for injuries causing death," by which the court might determine the liability for an accident which resulted fatally.

Labor was further encouraged by the passage of a bill⁴ making Labor Day a legal holiday. "The first Monday of September of each year, being the day celebrated and known as labor's holiday, is hereby made a legal public holiday, to all intents and purposes in the same manner as

¹ *Report of Bureau of Industrial and Labor Statistics*, 1890, p. 169.

² Annual Message of Governor, *Public Documents*, 1891, p. 13.

³ *Laws of 1891*, chap. cxxiv, secs. 1-2.

⁴ *Ibid.*, chap. xix.

Thanksgiving, Fast and Christmas days, the twenty-second day of February, the thirtieth day of May, and the fourth day of July, are now by law made public holidays."

The conspiracy law passed in 1887 and which had caused so much consternation among the unions was amended by the following act:¹ "Any employer, employee, or other person, who, by threats of injury, intimidation or force, alone or in combination with others, prevents any person from entering into, continuing in or leaving the employment of any person, firm or corporation, shall be punished by imprisonment for not more than two years, or by fine not exceeding five hundred dollars." The amendment took out the bitter sting in the former act and left a rather harmless statute. It has never been used since it was so amended.

The legislature was liberal enough to again increase the budget for the bureau, but the factory department was not increased.

§ 6. *Changes in Factory Department.*—A change in factory inspectors took place in 1891. In the place of Mr. Campbell, Mr. R. F. Chalk was appointed deputy commissioner. This gentleman was eminently fitted for the position on account of his nineteen years experience in cotton mills. The recommendation² of this deputy commissioner in 1892 was for the extension of a child-labor law so as to cover messenger service, etc., the raising of the age limit to fourteen years, and the giving the deputy commissioner power to refer unsanitary conditions to the local health bureau. His investigation³ shows that the percentage of women at work in the mills had greatly increased and that they had been supplanting child labor. Commis-

¹ *Laws of 1891*, chap. cxxvii, p. 139.

² *Bureau of Industrial and Labor Statistics*, 1892, p. 216.

³ *Ibid.*, p. 217.

sioner Matthews in the same report ¹ recommends that the deputy commissioner of labor should be given a department of his own separate from the Bureau of Industrial and Labor Statistics, and that his title should be changed to Chief Factory Inspector. The legislature of 1893 followed the suggestion of Mr. Matthews and passed an act to change the official title of the Deputy Commissioner of Labor. This act was as follows: ²

Section 1. The official title of the officer now known as deputy commissioner of labor is hereby changed to inspector of factories, workshops, mines and quarries.

Section 2. Chapter one hundred and thirty-nine of the public laws of 1887 is hereby amended by striking out the words, "deputy commissioner of labor" wherever they occur in said chapter and inserting in their places the words "inspector of factories, workshops, mines and quarries."

It also passed an act extending the powers of the inspector of factories as follows: ³

Section 1. It shall be the duty of the inspector of factories, workshops, mines and quarries, upon complaint, to inquire into, and prosecute for, any violations of chapter 134 of the public laws of 1887.

Section 2. It shall be the duty of the inspector of factories, workshops, mines and quarries to examine into the sanitary condition of factories, workshops, mines and quarries, and when any condition or thing is found that, in his opinion endangers the health or lives of the employees he shall notify the local board of health, and it shall be the duty of said board to investigate the matter.

Section 3. It shall be the duty of the inspector of factories,

¹ *Bureau of Industrial and Labor Statistics*, 1892, p. 8.

² *Laws of 1893*, chap. ccxx.

³ *Ibid.*, chap. ccxcii.

workshops, mines and quarries to enforce the due observance of sections twenty-five and twenty-six of chapter twenty-six of the revised statutes, relating to the swinging of doors in all factories and workshops.

Sec. 4. The inspector of factories, workshops, mines and quarries shall, on or before the first day of December annually submit his report to the commissioner of industrial and labor statistics, which shall be incorporated in, and printed with, the annual report from the bureau of industrial and labor statistics.

Sec. 5. All acts and parts of acts inconsistent herewith are hereby repealed.

Sec. 6. This act shall take effect when approved.

The proper enforcement of section 3 caused the factory inspector some trouble through the inclusion of section 26 of chapter 26 of the Revised Statutes. The section referred to school buildings and was entirely outside of his general jurisdiction. It was evident that its incorporation in this statute was clearly one of those mistakes which result from poor drafting of legislation during a busy session. The opinion of the attorney-general became necessary, and the following statement relieved the factory department of responsibility in this matter: ¹ "Section 3 is plainly a legislative enactment or declaration that the provisions of Section 26 shall apply to factories and workshops. I find no reference to swinging doors in section 26 of chapter 26 of the Revised Statutes and I fail to see how you (the factory inspector) have any official duties in regard to the enactment of that section."

The same legislature passed an act ² for the regulation of labels for workingmen's unions, which assured to the unions full protection in the use of their labels.

¹ *Report of Bureau of Industrial and Labor Statistics, 1893, p. 212.*

² *Laws of 1893, chap. cclxxvi, secs. 1-7.*

§ 7. *Results from Child Labor Law Enforcement.*—Factory Inspector Chalk's report of 1893 gives us the first official tabulation of the employees under the age of fifteen in the cotton mills of Maine.¹ He shows that in 1892, 446 children under the age of fifteen were employed, of whom 280 were boys and 166 girls. In 1893 the number of children employed had been reduced to 325, a decrease of 121, of whom 201 were boys and 124 girls. He estimates that the number of children employed had been reduced by about 300 in the last six years, i. e., since the law of 1887 went into effect, which was a reduction of nearly fifty per cent. Inspector Chalk points out an increase of children working in the woolen mills from 28 to 78 between the years of 1892 and 1893, and suggests that poverty has been the cause. He shows the increase in welfare features to the extent of \$23,000 spent for improvements. He urges further protective measures for the safety of children in mercantile establishments, for better toilet conditions in smaller industries and the more universal application of safety appliances.

The year 1894² showed a decided decrease in the number of children employed under the age of fifteen in cotton mills, the number having been reduced from 325 to 102. The number of children between fifteen and sixteen in cotton mills numbered 347, in woolen mills there were only fourteen reported as employed. About \$3,000 was spent by employers during the year in sanitary improvements, a large number of safety devices were suggested by the factory inspector as of great value.

§ 8. *Difficulties of Enforcement of Labor Laws during Financial Depression.*—The next year, 1895, was one in

¹ *Report of Bureau of Industrial and Labor Statistics*, 1893, p. 212.

² *Ibid.*, 1894.

which the results of hard times were felt very much by the people. "Feelings of unrest and discontent manifested themselves in many parts of the State. Pay day was in some cases deferred and children were illegally put into the mills to make up the losses in the family budgets."¹ Child-labor statistics gathered by the inspector show a total of 1,190 children employed, 547 of them being under the age of fifteen. Of these 457 were in cotton mills, 67 in woolen mills, 17 in shoe factories and 6 miscellaneous. Of these there were illegally employed, 67 in the cotton mills, 24 in the woolen mills and 2 in the shoe factories. During the season \$30,000 had been spent in improvements. The hard times developed the difficulty in compelling the fortnightly payment when goods were not sold. The inspector says,² "To enforce the payment to the letter of the law . . . would simply mean a suspension of business and a heavy loss on the part of the manufacturer, and a loss of employment on the part of the working man." During 1896³ the business depression throughout the country continued and the factory inspectors could only continue to urge upon the employers the moral right in paying the fortnightly wage. The retirement at the time of R. F. Chalk after five years of service as inspector was a great loss to the department. Even Governor Powers' message of 1897 showed the need arising from the industrial conditions. He says:⁴

Capital and labor have generally complemented and assisted each other, and we reasonably hope that this state of things is to continue in the future. Yet there are some labor problems to be solved even in our State. Many wage earners are engaged in very hazardous vocations on railroads, steamships,

¹ *Report of Bureau of Industrial and Labor Statistics*, 1895, p. 204.

² *Ibid.*, 1895, p. 231.

³ *Ibid.*, 1896, p. 231.

⁴ Governor's Annual Message, 1897; *Pub. Docs.*, 1897, p. 23.

and in some factories and mills. Often they cannot and do not know what dangers and perils surround them.

Every humane consideration demands that the best possible safeguards should be thrown about them; and that employers should exercise the highest degree of care in the selection of everything to be used in and about their work. Questions of this kind involving the liability of employers, and also questions relating to the number of hours of labor under certain conditions and ages, are still being agitated. You should not grant legislation in any case because it is demanded by the wage earners on one side, or refuse it because it is opposed by the employers on the other, but rather in the exercise of a sound discretion, and your unbiased judgment, do what you believe to be just and for the best interests of all concerned.

During 1897 business improved and the number of children employed in cotton mills in the State greatly decreased, according to the report of Charles E. Atwood, the new factory inspector, 230 under the age of fifteen, a decrease of over fifty per cent in two years. Children between fifteen and sixteen working numbered 561.

§ 9. *Employment Bureau Law.*—The legislature of 1899 passed an amendment¹ to the employment office law of 1895. Employment offices were first regulated by the act of 1854, chapter 105, 1, E, to which the amendment of 1855 added penalties. Licenses were required in 1899 and the manner of their registration was perfected by Chapter 114 of the law of 1903.

§ 10. *Powers of the Factory Inspector Defined by Court.*—Maine legislation has followed that of other States so closely that test cases have been almost unnecessary, but during the year a test case was brought in the Supreme Court to test the right of the factory inspector to demand the certificates of age required by the act of 1887. The

¹ *Laws of 1899, chap. iii.*

decision of the Supreme Court, 1897, *State vs. Donaldson*, 84 Maine 55, reads as follows:

The refusal and neglect of the employer of labor in a manufacturing or mechanical establishment to produce certificates of the ages and places of birth of children under sixteen years of age, employed, in such establishment, for the inspection of the deputy commissioner of labor, is not an interference with his duties within the meaning of this chapter. The term "interfere" as therein used relates to some action directed to the person, or some active personal obstruction or interference in the performance of his duties, and not mere non-action.

The powers of the factory inspector were thus limited to the right to search for violations of the law in the factories and the bringing of action against the parents of the children. The employer was freed from liability even for failure to file certificates. This was a radical defect in the law and made its efficient enforcement almost impossible.

§ 11. *Attempts to Improve Compulsory Education Laws.*—The year 1899 was marked by the holding in Augusta of the convention¹ of the officials of Bureaus of Labor Statistics, which should have given a great impetus to the factory legislation of the State, but did not appear to have had any results locally. The report² of the factory inspector for 1898 shows an increase in the total number of children employed under the age of sixteen to 788, but of these 554 were of the class between fifteen and sixteen, while 234 were under fifteen. It was estimated by the factory department that there were twenty thousand between five and seventeen not attending school, and it was the complaint of the department that there was no coöperation between the school au-

¹ *Report of Bureau of Industrial and Labor Statistics*, 1899, p. 102.

² *Ibid.*, 1898, p. 210.

thorities and the factory inspector in the enforcement of the compulsory education laws. This was an old complaint. It was further suggested that Section 8 of the act of 1887 to regulate the hours of labor and the employment of women and children, be amended so as to require a transcript of the birth record to be filed with the mill agent.

The year 1899 shows an increase in the number of children employed, but it is claimed by the factory inspector that the percentage of increase in the number of children was much smaller than the increase of adults employed. In that year there were 349 children under fifteen and 573 between fifteen and sixteen. In this same year a strict truant and compulsory education law¹ was passed requiring children between seven and fifteen inclusive to attend some public school during the time the school was in session, unless excused by the school officers. All persons having children under their control were required to cause them to attend school as required by law under penalty of a fine not exceeding twenty-five dollars for each offense, or imprisonment not exceeding thirty days. Any child who shall be absent without sufficient excuse six or more times during any term shall be deemed an habitual truant and if after admonition the truancy is continued, the child, if a boy, may be committed to the State Reform School, and if a girl, to the State Industrial School for Girls, or to any truant school that may hereafter be established. Any person having control of a child who is an habitual truant and who shall in any way be responsible for its truancy shall be subject to a fine not exceeding twenty dollars or to imprisonment not exceeding thirty days. Cities and towns are required to elect truant officers under penalty of from ten to fifty dollars.

¹ *Laws of 1899*, chap. lxxx.

The value of these provisions was enhanced by the fact that they had the support of the court decision ¹ in *Omaha v. Winthrop*, 65 Maine 129, where the Supreme Court of Maine held that a warrant for the arrest of a truant may be served by a truant officer, and the truant sentenced to reform school or house of correction during minority. The execution of the sentence might be suspended.

Unfortunately this law proved too strict for the time, and the legislature of 1901 ² reduced the age from fifteen to fourteen years, inclusive, with some interesting results, as we shall see.

§ 12. *Effect of Compulsory Education Laws on Child Labor (1899-1903).*—In 1900, Mr. Atwood, the Factory Inspector, makes a more favorable report ³ as to the number of children working, there being a decrease of 247 in the number under sixteen, the totals for the year making 675 under sixteen, 425 between fifteen and sixteen, and 250 under fifteen.

In 1901 we find the inspections are continuing as usual, there has been a large increase in the number of children employed. The reason for this as stated ⁴ by Mr. Atwood is suggestive.

It will be seen that the number of children under fifteen years of age has decreased, while the number between fifteen and sixteen has increased. This may be accounted for from the fact that when business is prosperous the causes that prompt infractions of the law are not so pressing. When labor is scarce and wages are reasonably high, there is not the same incentive to send children of tender years into factories to work as when the reverse is the case. Business depression causes a lowering of the wages

¹ *Public Documents*, 1889, School Laws, p. 6.

² *Laws of 1901*, chap. clxxxv, sec. 1.

³ *Report of Bureau of Industrial and Labor Statistics*, 1900.

⁴ *Ibid.*, 1901, p. 184.

received by the father and hence induces him to resort to subterfuges, if not to absolute violation of law, in order that his under-age children may assist him to eke out the usual family income. But the year 1901, in all branches of manufacturing enterprise, has been very prosperous, and for that reason the number of children under fifteen years of age, employed in industrial pursuits, has appreciably fallen off. In 1899 the number of children under fifteen years of age employed in manufacturing and mechanical establishments in the State was 349; in 1900, the number was 250 and in 1901 it was 219. The falling off in the number of children employed under fifteen years is partially accounted for by the change of the law of last winter reducing the school limit from fifteen to fourteen years inclusive. Children between fifteen and sixteen years of age, being released from compulsory school attendance, increased in the mills from 425 in 1900 to 725 in 1901, and to some extent have displaced those under fifteen years.

The relation of the factory inspector and the school authorities was still very confused. In 1902¹ both the compulsory education law and the child-labor law required school attendance of children under fifteen, but the labor law stipulated only sixteen weeks, while the compulsory education law required attendance during the full time the school was in session. The query naturally arose, should the school law annul the labor law? Again there were the two sets of officers to enforce the law, a single factory inspector on one side and some 500 truant officers on the other, with little or nothing accomplished by either. During the year 1902 there was a slight increase in the number of children under fourteen working, from 221 to 234, though the number under sixteen was reduced from 946 to 719.

An attempt was made in 1903² to abolish the office of

¹ *Report of Bureau of Industrial and Labor Statistics, 1902*, p. 194.

² *Ibid.*, 1903, p. 209.

factory inspector on account of the apparent conflict between his work and that of the educational authorities, which called forth a reply from the factory inspector, asking that the compulsory education law and the labor law be made identical in regard to age, and then give the factory inspector assistants and authority to enforce both, or appoint a State Truant Officer to supervise.

§ 13. *Maine Mining Bureau.*—The legislature of 1903, instead of reorganizing the office of inspector of factories and mines on some comprehensive scheme, simply added a mining bureau without any appropriation. The statute reads as follows:¹

Sec. 1. The land agent, the commissioner of agriculture and the commissioner of industrial and labor statistics are constituted a mining board to be known as the Maine Mining Bureau. They shall organize by electing from their number a president and a secretary.

Sec. 2. Said bureau shall collect reliable information concerning the deposits of all precious and useful minerals and other valuable subterranean productions in the state that are supposed to exist in quantities sufficient to justify the development of such properties.

Sec. 3. It shall establish a metallurgical cabinet of exhibit of the state in such room in the state house, as the superintendent of public buildings may direct, and in such cabinet they shall properly arrange samples and specimens of ores, valuable rocks and metals of the state collected by them, for the safe keeping and preservation of the same.

Sec. 4. It shall biennially issue a pamphlet containing such reliable information concerning the mineral resources of the state as it has collected, and shall distribute at least one thousand copies of such pamphlet among the business men and capitalists of other states.

¹ *Laws of 1903*, chap. ccxxvii, secs. 1-4.

§ 14. *Revival of the Labor Movement.* — Nineteen hundred and four finds the factory inspector¹ still calling for the revision of the labor laws and especially recommending that the section in regard to age should be changed to require a birth certificate countersigned by the school authorities. He further submits a bill to provide guards for machinery, etc., similar to the law in Ohio, and urges the need of an employers' liability law. While conditions of child-labor according to the statistics show an increase, there being 323 children under fifteen, as against 157 in 1903, and 426 between fifteen and sixteen against 428.

The hopelessness of the situation resulted in the resignation of Mr. Atwood and the threatened abolition of the factory department itself. Fortunate it was that other forces came to the aid of the situation just at that time. The organization of the State Federation of Labor in June, 1904² began anew the agitation for labor legislation, while an awakening of interest in child-labor among the Federation of Women's Clubs added another group of people to the fight. With the advent of these organizations begins a new chapter in the history of Maine labor legislation.

¹ *Report of Bureau of Industrial and Labor Statistics*, 1904, p. 233.

² *Labor Journal*, 1904.

CHAPTER VII

· CHILD LABOR CAMPAIGN, 1905-1907

§ 1. *Agitation by the Federation of Women's Clubs.*—The labor legislation of 1887 was preceded by several years of public agitation upon the subject conducted by the educational and labor agencies. Twenty years later history repeats itself. The growth of the State Federation of Labor had been marked and its influence increasing. In the Autumn of 1904¹ a labor candidate was urged upon the Governor for the Commissioner of Industrial and Labor Statistics and the legislative committees of the Federation of Labor had a series of bills ready for the opening of the seventy-second legislature.

In the same autumn the Federation of Women's Clubs² appointed an educational committee to interest itself in the problem of child-labor. The committee was the result of an address given during the previous spring by Mrs. Florence Kelley, Secretary of the National Consumers League, and the investigation of some of the women into the conditions existing in some of the mills during the summer. In February the Women's Clubs appointed a legislative committee to wait upon the Governor and urge the appointment of Mrs. E. J. Mason of Biddeford as factory inspector. Governor Cobb in turn asked the ladies to suggest a suitable man for the position and through their in-

¹ *Boston Sunday Globe* (Nov. 27, 1904).

² Unprinted report by Mrs. E. J. Mason, of Biddeford.

fluence George E. Morrison of Saco was selected by the Governor. His appointment was postponed for some time on account of the pending bill for the abolition of the office.

§ 2. *The Legislature of 1905.*—The legislature of 1905 saw the introduction of not only a bill to amend the child-labor law, but a large number of other labor bills. A bill ¹ was introduced into the Senate to abolish the office of Inspector of Factories, Workshops, Mines and Quarries. At the hearing on March 9th a plea ² was made for the retention of the office by Commissioner Matthews and a strong labor lobby. The Committee on Labor brought in a recommendation against the bill. A bill ³ to make eight hours the legal day's work was also killed in committee. A strong bill ⁴ to create a State Board of Conciliation and Arbitration, though well supported by petitions, died in the same committee. Labor ⁵ was especially interested in the fifty-eight hour bill applying to the manufacturing and mercantile establishments, being the first attempt to regulate the hours of labor in the mercantile establishments, but it was reported unfavorably by the Committee on Legal Affairs. Bills for employer's liability and the regulation of assignment of wages ⁶ were lost in the same way. An exception to the rule was made in the case of the bill ⁷ to license plumbers, which was passed. The bill ⁸ to provide for the better enforcement of the law relating to the employment of children was treated a little less harshly than the others,

¹ *Senate Documents*, 1905, p. 488.

² *Kennebec Journal* (Mar. 10, 1905).

³ *Senate Documents*, 1905, p. 4.

⁴ *Ibid.*, p. 5.

⁵ *Official Journal, Maine Federation of Labor*, 1905, p. 45.

⁶ *House Documents*, 1905, p. 480.

⁷ *Laws of 1905*, chap. lxxi, secs. 1-4.

⁸ *Senate Documents*, 1905, no. 9.

being referred to the next legislature. This condescension on the part of the legislature was probably due to the increasing agitation on the part of the Federation of Women's Clubs. Mrs. Kelley was again asked to speak before a large and enthusiastic meeting at the State House in February, and other meetings were held by the ladies in all the larger cities and towns of the State.

The failure of all these bills in the legislature postponed for two years consideration of distinctly labor legislation, but during that session there passed a bill ¹ relating to the protection of children, amending the "cruelties act." This bill vested in the Governor and Council the power to appoint with sufficient compensation suitable persons to enforce the laws for the protection of children with power to investigate cases of cruelty. Besides providing for probation of children, it gave powers of probation over deserting husbands and fathers to these officers in the discretion of the court. It regulated the employment of children in disorderly houses, gambling places, where intoxicating liquors were sold, or other places injurious to health and morals. It also provided against the exhibition of children under sixteen years of age in public performance or in begging and providing penalties for the same. This law added a new type of police power, available to regulate the work of minors and indigent parents.

The result of the agitation for child-labor legislation was the incorporation into the educational bill, ² passed during the session, of a strong section on compulsory education. The revised law reads as follows:

Sec. 46. Towns may make such by-laws, not repugnant to law, concerning habitual truants, and children between six and

¹ *Laws of 1905*, chap. cxxiii, sec. 9.

² *Ibid.*, chap. lxii.

seventeen years of age not attending school, without any regular and lawful occupation, and growing up in ignorance, as are most conducive to their welfare and the good order of society; and may annex a suitable penalty, not exceeding twenty dollars, for any breach thereof; but such by-laws must be first approved by a judge of the supreme judicial court.

Sec. 47. Truant officers elected as provided in section fifty-one shall alone make complaints for violations of said by-laws, and shall execute the judgments of the magistrate.

Sec. 48. Said magistrate, in place of fine, may order children proved to be growing up in truancy, and without the benefit of the education provided for them by law, to be placed for such periods as he thinks expedient, in the institution of instruction, house of reformation, or other suitable situation provided for the purpose under section forty-six.

Sec. 49. Every child between the seventh and fifteenth anniversaries of his birth shall attend some public day school during the time such school is in session, and an absence therefrom of one-half day or more shall be deemed a violation of this requirement; provided that necessary absence may be excused by the superintending school committee or superintendent of schools or teachers acting by direction of either; provided also, that such attendance shall not be required if the child obtained equivalent instruction, for a like period of time, in an approved private school or in any other manner approved by the superintending school committee; provided, further, that children shall not be credited with attendance at a private school until a certificate showing their names, residences and attendance at such school signed by the person or persons having such school in charge, shall be filed with the school officials of the town in which said children reside; and provided, further, that the superintending school committee may exclude from the public schools any child whose physical or mental condition makes it inexpedient for him to attend. All persons having children under their control shall cause them to attend school as provided in this section, and for

every neglect of such duty shall be punished by a fine not exceeding twenty-five dollars or shall be imprisoned not exceeding thirty days.

Sec. 50. Children living remote from any public school in the town in which they reside may be allowed to attend the public schools, other than a high school approved as provided in section sixty-three, in an adjoining town, under such regulations and on such terms as the school committees of said towns agree upon and prescribe, and the school committee of the town in which such children reside shall pay the sum agreed upon, out of the appropriations of money raised in said town for school purposes. Except as above provided, a child attending a public school, other than a high school approved as provided in section sixty-three, in a town in which his parent or legal guardian does not reside, after having obtained the consent of the school committee of such town, shall pay, as tuition, a sum equal to the average expense of each scholar in such school.

Sec. 51. Cities and towns shall annually elect one or more persons, to be designated truant officers, who shall inquire into all cases of neglect of the duties prescribed in section forty-nine and ascertain the reasons therefor and shall promptly report the same to the superintending school committee, and such truant officers or any of them shall, when so directed by the school committee or superintendent in writing, prosecute in the name of the city or town, any person neglecting to perform the duties prescribed in said section, by promptly entering a complaint before a magistrate; and said officers shall, when notified by any teacher that any pupil is irregular in attendance, arrest and take such pupil to school when found truant; and further such officers shall enforce the provisions of sections one hundred and eighteen to one hundred and twenty, inclusive, of this chapter. Every city or town neglecting to elect truant officers, and truant officers neglecting any duty required of them under the provisions of this chapter shall forfeit not less than ten nor more than fifty dollars. The municipal offi-

cers shall fix the compensation to the truant officers, elected as prescribed in this section. Superintending school committees may fill vacancies occurring during the year, and shall elect truant officers at their first meeting after the annual meeting of the town, in case the town neglects to do so, or the truant officers elect, or any of them, fail to qualify.

Sec. 52. If a child without sufficient excuse, shall be absent from school at six or more consecutive sessions during any term, he shall be deemed an habitual truant, and the superintending school committee shall notify him and any person under whose control he may be that unless he conforms to section forty-nine, the provisions of the two following sections will be enforced against them; and if thereafter such child continues irregular in attendance, the truant officers or any of them shall, when so directed by the school committee or superintendent in writing, enforce said provisions by complaint.

Sec. 53. Any person having control of a child, who is an habitual truant, as defined in the foregoing section, and being in any way responsible for such truancy, and any person who induces a child to absent himself from school, or harbors or conceals such child when he is absent, shall be punished by a fine not exceeding twenty dollars or shall be imprisoned not exceeding thirty days.

Sec. 54. On complaint of the truant officer, an habitual truant, if a boy, may be committed to the state school for boys, or if a girl, to the state industrial school for girls, or to any truant school that may hereafter be established. Police or municipal courts and trial justices shall have jurisdiction of such complaint and of the offences described in sections forty-nine, fifty-one and fifty-three. All warrants issued by said courts or trial justices upon such complaint, or for an offense committed under said sections, and all legal processes issued by said courts or trial justices for the purpose of carrying into effect the provisions of this section and of the said sections numbered forty-nine, fifty-one and fifty-three, may be directed to and executed by the truant officer, or either of the truant

officers, of the town where the offense is committed. All fines, collected under said two last named sections, shall be paid to the treasurer of the city or town in which the offense is committed, for the support of the public schools therein.

The first report of Factory Inspector Morrison¹ deals very briefly with the welfare conditions, but points out the good conditions existing in the larger mills and the need of persistent work on the smaller to make them satisfactory. He shows an increase in the number of children working on certificates, i. e. under sixteen years of age, to 813, and accounts for this by the scarcity of help, stating that hardly a mill in the State was running to its full capacity on that account. The bad conditions existing at the time are shown by an article written by the President of the State Federation of Labor, in which he says,² "There are hundreds of children today under the age of twelve years working from ten to twelve hours per day, when the law says they shall be in school. But as yet we have not been able to remedy this terrible evil. . . . When the inspector visits and finds them working in any factory he merely orders them home. As soon as he leaves the factory or shop, they return to work again, only losing a small amount of time. This is done instead of prosecuting." A labor committee had been appointed at the 1905 meeting of the Federation of Labor to investigate into the matter. Many cases had been reported, and but few taken notice of.

There now appears upon the scenes for the first time in Maine, the type of newspaper investigator, which is so familiar elsewhere. Long articles appear in the *Lewiston Journal* in the Spring of 1906³ and in the labor papers,⁴

¹ *Report of Bureau of Industrial and Labor Statistics*, 1905, p. 188.

² *Maine Labor Journal*, vol. i, no. 1 (June 1, 1906).

³ *Ibid.* (June 16th).

⁴ *Ibid.*, no. 2 (Mar. 1, 1907), "Child Slavery in Maine."

written in catchy style, appealing to the emotions of the reader. The cry of two thousand children at work in the mills was raised and facts were stated which showed clearly that better legislation was needed, but did not add any proof of wholesale violation of the existing labor laws, but often an exaggeration accomplishes more that is good for the community than a clear statement of the truth. These articles show that under the existing law the parents were the only ones who could be held for the violation and that they were without resources, so to hold them liable to fine was simple cruelty, and in so far they pointed truly to the weak point in the law.

The meeting ¹ of the State Federation in 1906 demanded rigid enforcement of the law and decided to render every possible assistance by having committees appointed in the important localities to make report and if the officials did not do their work to have them removed. The attention of the whole country was called to the situation by the address of Samuel Gompers,² President of the National Federation of Labor, delivered in Lewiston that Spring, in which he said,

I have read the reports of the legislative committees in the different states, and I find that in the great State of Maine, in your factories and in your mills, the statement made that children, young and innocent children, less than twelve years of age, are working for these corporations. (A voice. Less than eleven.) I said less than twelve, and that bears me out. Less than eleven. Now who interests himself in affairs of this character, our philanthropists, our churches? The members of these corporations will go to church, and for about five

¹ *Proceedings of the Third Annual Convention, Maine State Federation of Labor* (June, 1906), p. 14.

² *Ibid.*, p. 28.

minutes in the week pray for the men and women and children of labor, and for the balance of the week proceed to prey upon them. The effort to save the children from the modern traffic monger all devolves upon the organizations of labor. Read the history of legislation of this character throughout our entire country, aye, the world over, and you will find the associations of labor have initiated the agitation, creating public opinion, reaching and shocking the public conscience, and public spirited men have grown up and have espoused and defended the cause which labor proclaimed. But here you are in Maine, with children less than eleven years of age working. In highly civilized Maine, children less than eleven years of age. Temperate Maine. If the people of this state had an opportunity of deciding that question upon a referendum vote, how do you suppose it would go? How would that thing go? Where is there a man with a conscience so elastic, with a heart so hard, who would not vote to abolish the labor of young and innocent children? Where is the man, if that be true, and I doubt that there is anyone who will dispute it, who claims that the conscience and the hearts and the minds of the people of Maine are not against that sort of thing? How is it then, that you haven't something more effective than what you have?

There was begun about the same time agitation for the fifty-eight hour law and the Convention of Maine Textile Workers voiced their opinions in the following resolution:¹

Whereas, It is generally admitted by thinking men, who have made a study of economic and industrial questions, that where hours of labor are the least wages are the highest and civilization has its standard advanced, while where hours of labor are the longest wages are the lowest and the greatest human misery is to be found. Therefore, we should spare no effort to reduce the hours of labor of the women and minors of our

¹ *Kennebec Journal* (Dec. 10, 1906).

State, that it may elevate them socially, morally, physically and mentally. Therefore be it

Resolved, That we, the Textile Workers of Maine, do hereby ask and demand that the Legislature of this State pass a law making fifty-eight hours per week the limit of labor for women and minors in factories and shops.

Speeches in favor of the fifty-eight hour law were made by many of the delegates present, among them Mr. Carlin of Brunswick, who advocated it strongly. Mr. Carlin said in effect that he thought that it was time Maine had the law. Many other states had it, and the fact that Maine still had the sixty hour day [sic] acted as a deterrent to other states reducing the hours of labor. Continuing, he said that the manufacturers of other states where the law was in force were not suffering thereby, and in proof of his statement cited cities in Massachusetts where, he said, new mills are being built every year. He further said that with a shorter day the Maine manufacturers would have less difficulty in getting help, as those who come from places where the fifty-eight hour law is in force and have to work sixty hours per week do not stay but return to the places from whence they came.

Another point that he made was that the old-fashioned machinery was being replaced by that which was faster and more improved and which called for quicker work on the part of the operator and forced more of a strain upon him, making him more tired at the close of the day's work and depriving him of the desire to indulge in such recreation as he would otherwise enjoy. He also claimed that shorter hours and the resulting increase in the time to be devoted to rest and recreation would render the operative more fit for duty and that thereby he would produce a better quality of work.

The report ¹ of Inspector Morrison, published January 1st, 1907, shows how unfair legal action against the parents would be. Out of sixteen fraudulent certificates found in

¹ *Report of Bureau of Industrial and Labor Statistics, 1906, p. 211.*

a mill, he found that only one parent who was required by law to sign the certificate could read or write and in no case could a hundred dollars fine be collected without great hardship. The inspector suggests two amendments to the child-labor law. He says, "We recommend that Sec. 53 of Chapter 40 of the Revised Statutes be so amended that no child under fourteen years of age, instead of fifteen as now provided in said section, shall at any time, be employed in any manufacturing or mechanical establishment in the State. We believe that whether a child is, or is not, attending school a portion of the time, is not the criterion by which we should try to control child labor, but for the physical and moral benefits of the coming generation, it should be an offence, prohibited by our laws, to employ any child under fourteen years of age in our manufacturing or mechanical establishments." The further suggestion was that a certified copy of the city or town clerk's record of birth, baptismal record or passport should be put on file by the employer and a certificate issued by him, furnished by the inspector and approved by the Attorney General. This shall also be kept on file while a duplicate is sent to the inspector. At the same time the factory inspector recommended that the term "corporation" as used in section 58 of the law relating to fortnightly payments should be changed to read, "mining, quarrying, stonecutting, mercantile, street railway, telegraph, telephone and municipal corporations, every incorporated express and water company, and any person or firm engaged in any of the above specified kinds of business."

Statistics of child-labor did not show any improvement.¹ November 1st, 1906, there were 877 children employed with certificates in the mills and 119 under excuses. While

¹ *Report of Bureau of Industrial and Labor Statistics*, 1906, p. 213.

there seems to have been "hearty coöperation of the Superintendents of Schools in the various manufacturing cities of the State," there still was little comprehensive work. The parochial schools of Biddeford and Portland made no report as to the children in attendance and in Lewiston the parochial opposition to the surrendering of lists of pupils to the School Board made adequate enforcement of the truant laws in the big cities practically impossible. It was believed by the factory inspector at the time that fifty per cent of the certificates under which the children were working were false.

§ 3. *The Legislature of 1907.*—Governor Cobb in his annual message ¹ to the legislature, January 3rd, 1907 recommended as follows:

I especially urge you to change and improve the laws bearing upon the question of child labor in this State. Maine is lagging here and the children themselves are helpless. You must be their champions, and neither the thoughtlessness of parents nor the indifference of employers must be permitted to interfere with the performance of the State's manifest duty to provide, as best she may, for the moral, physical and educational welfare of these children to whom unfortunately so many of the pleasures and opportunities of childhood are denied.

A bill was introduced into the House raising the minimum age at which children may work from twelve to fourteen, but was withdrawn in favor of a stronger bill proposed by the factory inspector with the approval of the Governor.

The hearing before the labor committee on Mr. Morrison's bill was one of those that gathers together all the civic forces of the community. I quote the labor version of the meeting ² which agrees with the statements of the Feder-

¹ *Public Documents*, 1907; Annual Message of Governor.

² *Maine Labor Journal* (Mar. 1907), p. 19.

ation of Women's Clubs and best illustrates the bitterness of labor toward capital.

The regular labor committee room was not large enough to accommodate the people who wished to attend, so the meeting was adjourned to the Senate Chamber and that was filled to the doors. It was a very interesting hearing indeed to the spectators and a very busy one to the factory owners, who were there in large numbers and who also had an attorney to look out for their interests at law. The owners did most of the speech making themselves as the attorney seemed to feel embarrassed in his position. The bill was in charge of factory inspector Mr. Morrison who spoke in favor of the measure. There were many other speakers, among them Mrs. E. J. Mason of Biddeford, Chairman of legislative committee of the Maine Federation of Women's Clubs, Mrs. Frederick Marsh of Waterville, President of the same. These women made eloquent and touching speeches and they certainly helped the boys and girls in this State, who are shut up in the prison factories for long hours every day, for a mere pittance, while by their work they add largely to the bank account of the factory owners.

The bill was before the committee during more than two weeks and during this time the mill owners brought all possible pressure to bear upon the committee. One point of contention was the section 55 which made an exception in regard to perishable product. This point was backed by a strong lobby from the canning districts in the Eastern part of the State, but as a compromise a clause was added to the section providing for inspection by the factory inspector of the conditions and giving him a right to prohibit the employment of children until the conditions had been removed. The bill repealed sections 53, 54 and 55 of the labor law of 1887, thus removing the educational restric-

tions. This was done against the wish of the Federation of Women's Clubs, who had drafted a bill providing for an educational condition, but refrained from proposing it fearing to injure Mr. Morrison's bill. On March 7th the Governor signed the bill and it became a law September 1st, 1907. The act reads as follows:

Section 1. Section 52 of Chapter 40 of the Revised Statutes is hereby amended by striking out the word "twelve" in the first line of said section and substituting therefor the word "fourteen," also by striking out the words "and every parent or guardian who permits any child to be so employed," so that the said section as amended, shall read:

"Section 52. No child under fourteen years of age shall be employed in any manufacturing or mechanical establishment in the state. Whoever, either for himself, or as superintendent, overseer or agent of another, employs or has in his employment any child in violation of the provisions of this section, shall be punished by a fine of not less than twenty-five, nor more than fifty dollars for each offense."

Section 2. Sections 53, 54 and 55 of said Chapter 40 are hereby repealed.

Section 3. Chapter 40 of the Revised Statutes is hereby amended by inserting as Section 53 of said chapter the following:

"Section 53. Any child over fourteen years of age, and under sixteen years of age, applying for employment in any manufacturing or mechanical establishment in this state, or any person applying in his behalf, shall produce and present to the owner, superintendent or overseer of such establishment a certified copy of the town clerk's record of the birth of such child, or a certified copy of his baptismal record showing the date of his birth, or his passport showing said date of birth, and without the production and presentation of said town record, baptismal record or passport, such child shall not receive the employment applied for. The employer shall retain such town

record, baptismal record or passport and shall issue to such child a certificate containing the name of the child, the names of his parents, if living, or guardian, if any, with the residence of said child, parent or guardian, and such other facts as may be required by the inspector of factories, workshops, mines and quarries, which certificate shall be furnished in blank by said inspector and shall be approved as to form by the attorney general. The employer shall furnish to said inspector a copy of each certificate thus issued immediately after the issuance of the original, which copy shall be retained by the inspector upon a file prepared for that purpose. When such child leaves such employment the employer shall return to such child the copy of town record, baptismal record or passport furnished by him as aforesaid and shall immediately notify said inspector that such child has left his employment, and the date of such leaving. The inspector of factories, workshops, mines, and quarries, or either of his assistants, may demand the names of the children under sixteen years of age employed in such establishment, in the several cities and towns of the state, and may require that the certificates of age prescribed in this section, shall be produced for his inspection, and a failure to produce the same, shall be *prima facie* evidence that the employment of such child is illegal."

Section 4. Said Chapter 40 is further amended by the insertion of Section 54 the following:

"Section 54. The penalties provided by Section 52 of this chapter shall apply to all provisions of Section 53. It shall be the duty of the inspector of factories, workshops, mines and quarries, and of his assistants to investigate and prosecute all violations of the provisions of the two preceding sections."

Section 5. Section 56 of said Chapter 40 is hereby amended by renumbering the same as Section 55 and by striking out the word "eight" in the first line thereof and inserting in place thereof the word "seven" and by also adding to this section the following: 'Provided, however, the employment of children therein shall be under the supervision of said in-

spector who shall on complaint investigate the sanitary conditions, hours of labor and other conditions detrimental to children, and if he finds detrimental conditions to exist, he may prohibit the employment of children therein until such conditions are removed,' so that said section as amended shall read as follows:

"Section 55. Nothing in the seven preceding sections shall apply to any manufacturing establishment or business, the materials and products of which are perishable and require immediate labor thereon, to prevent decay thereof or damage thereto. *Provided, however,* the employment of children therein shall be under the supervision of said inspector who shall on complaint investigate the sanitary conditions, hours of labor and other conditions detrimental to children and if in his judgment he finds detrimental conditions to exist, he may, in conjunction with the municipal officers of the town or city of which the complaint is made, prohibit the employment of children therein until such conditions are removed."

Section 6. This act shall take effect September 1st, 1907.

The salary of the factory inspector was also increased \$200.¹

§ 4. *Other Labor Legislation Before The 73d Legislature.*—There were proposed a number of bills, which were in the interest of the laboring classes.² An amendment to Section 58 of Chapter 44 of the Revised Statutes relating to the "fortnightly payment of wages" was drafted and strenuous measures were made by the Federation of Labor to secure its passage. The amendments were along the line proposed by the Inspector of Factories, but the bill was killed in the Judiciary Committee. An employment agency bill³ designed to prevent the fleecing of those who applied to employment agencies for work was introduced

¹ *Laws of 1907*, chap. lxxvii.

² *Maine Labor Journal*, vol. i, no. 3, p. 16 (August, 1907).

³ *Laws of 1907*, chap. lxxxiv, secs. 1-7.

by Representative G. Raymond Joy of Bar Harbor and became a law. Under the old system the employment agencies frequently took the money of parties applying for positions and sent them after 'fake' jobs. Under the provisions of this bill, if the applicant does not get the position for which he applies his money must be returned. The agency is required to give a bond in the sum of five hundred dollars not to violate any of the provisions of the act, and cannot charge more than one dollar, and must give a receipt for it.¹

§ 5. *The Fifty Eight Hour Bill.*—The bill reducing the hours of labor of women and children in factories from sixty to fifty-eight hours was proposed by the textile workers, and was opposed by the same forces which opposed the amendments to the child-labor law. A strong delegation represented labor in the State, and some even coming from Massachusetts and Rhode Island. The bill was killed in committee.

The Employer's Liability Bill, which was drawn by Alfred R. Peakes of Foxcroft was ably defended by him before the committee on judiciary. The bill was as strongly opposed by the best legal talent in the State and the committee did not report favorably upon it. The provisions of the bill were to shift the financial loss from persons who receive the injury in such a way that it would be added to the cost of production of the goods in the manufacture of which the accident occurred. This is simply an extension of the principle of other insurance to the field of the employee. A foundry bill was also introduced to improve the condition in the foundries but was killed because opposed by the inspector of factories as unnecessary.

A bill ² was passed that dealt with the regulation of the

¹ *Eastern Argus* (June 15, 1907).

² *Laws of 1907*, chap. vii.

lumbering men who work during the winter in the camps of the interior. The subject is too far afield to do any more than mention its passage. The custodians of elevators¹ were also the subjects of regulations by this legislature.

§ 6. *Initiative and Referendum*.—A bill² was introduced and carried in this legislature which at first would seem not to come under the head of factory legislation, but in the discussion that will follow in the next chapter we will see its direct bearing. This was the bill for initiative and referendum amending the Constitution and was passed to be referred to the people at the election in September, 1908. For it the labor unions had been working for some years and it had the backing of the Grange and civic bodies. It provided for the initiation of bills into the legislature by petition and gives the right of veto to the people at a general election if petitioned for within sixty days after the passage of the bill. With its passage a new era of factory legislation dawned upon the State and it is fitting that with its passage this history of factory legislation should close.

¹ *Laws of 1907*, chap. iv.

² *Report of Bureau of Industrial and Labor Statistics, 1907*; "Labor Laws of 1908."

PART II

ADMINISTRATION AND THE FACTORY LAW (1908)

CHAPTER VIII

INTRODUCTORY

§ 1. *Meaning of Referendum.*—The history of sixty years of struggle for factory legislation closed with the passage of the initiative and referendum act. The struggle for the protection of the laboring people by the State has not ended, in reality has only begun. The change that has been wrought in the sixty years has been the gradual extension of the police power of the State. A counter movement, resulting from control of State legislation by a few individuals, has resulted in the referendum, which has returned to each individual, not the freedom from responsibility to govern his own acts of an industrial type as an individual, but the responsibility to govern the actions of himself and his fellow workmen as well, as a member of an industrial state. No longer can the plea be made that capital can buy shrewd lawyers who directly or indirectly can control the legislature. It is an old saying that you cannot fool all the people all the time, and in a democracy there can be no complaint if conditions adverse to the majority of the people in the community are allowed to remain when the will of that majority is able to express itself. The future factory legislation of the State, whether for or against organized labor or organized capital, must have the sanction of the majority of the people in the State. When the warring factions in the labor dispute of the Western Federation of Miners wished a jury to try the Haywood case both sides agreed in choice of farmers as the jury. Maine today has a popula-

tion made up largely of farmers, and this jury can be trusted perfectly to bring in an honest decision in the case of disagreement between capital and labor. Probably in no other State can the referendum hope for such good results and can there be expected for the future such sane, far-sighted legislation.

§ 2. *Necessity for Period of Education.*—When the case of the western miners was presented to the Idaho jury, there were weeks, even months, spent in the education and informing of the farmer jury of the exact facts of the case it was called upon to decide. In glancing back across the history of the sixty years we find that a period of education preceded each of the periods of legislative enactment, short, maybe, in the period before 1847, but extending over several years previous to 1887, and this again is true in 1907. This period of education was limited simply to agitation in an educational group in the early time, in a labor group in the middle period, and in labor combined with the federated clubs in the last. In the future the educational campaign for labor legislation must extend to the Canadian border and the mountain wilds of New Hampshire. Even in the movement for the referendum the aid of the Grange was sought and secured by their brethren of the Unions. In the future the vote of the community in the lumbering camps and of those who sail the little smacks among the islands of the sea must be counted on. To bring such to the realization of the justice in the legislation demanded by organized labor or the voluntary civic organizations that are interested in the amelioration of the conditions of the people is no easy task, specially for those who have some pet panacea to cure the evils that affect a very limited number of people. There will be need of careful reasoning and much forethought to accomplish such results, and no hasty steps looking to temporary

benefits and immediate ends would be successful. It is with the realization of this need, that the next attempts in factory legislation in the State of Maine should be founded upon the experience of the past which antedates the knowledge of almost all the voters in the State, that the foregoing history has been written, and the concluding suggestions are offered as to possible lines for legislation in the immediate future.

CHAPTER IX

AGENCIES OF ENFORCEMENT

§ 1. *The Lack of Coördination among Agencies of Enforcement.*—The growth of police power in the different parts of the country has tended to develop a number of types of special police to administer laws enacted to regulate certain growing evils in the community. In Maine there has been provided a factory inspector to care for the conditions in the manufacturing and mercantile lines, a group of special county officers appointed by the governor to prevent immorality and the abuse of children, and a third class of truant officers operating in the respective towns and appointed and paid for by the school committees of those towns. These three types of administrative officers each has some power of inspection and control of the working children of the State. Beyond this sphere of common activity, the factory department has the problems of the bettering of the welfare conditions in the factories and the duty of the adjustment of disputes, the protective agents having the vice side, while the truant officers have the task of placing the children in the schools. Despite the common field of activity, this machinery of State control has never been properly adjusted to do efficient work. Contact between these parts is absolutely lacking in most cases, and the exceptions have resulted in enough friction to produce the only sparks of life visible in the reports of the factory inspectors these twenty years.

In the history of the factory department there have been a number of attempts to abolish the department as useless. Throughout the whole history of the attendance regulation, whether in the hands of the school committee or the town truant officers, its effectiveness has been nullified by the influence of the employers over these boards and the opposition of the parochial schools to being interfered with by public school officials. Now, the county protective officers being free from the town influence and close to the advice and the autocratic power of the court, have been able to exert in a limited field great ameliorative as well as correctional power.

We have seen that there exist town officers, county officers and a State officer attempting to deal with the same problem, i. e., child labor. The school authorities admit that there is need of centralized State control of truancy, while the factory inspector has many times pleaded that a State officer should be appointed to supervise the attendance work, whether he be a member of the factory department or the Board of Education. The position is still more complicated by the location of the office of the factory inspector at Biddeford, two hours from the State capital. In the meantime the protection officers have in several counties been proceeding to control the work of the lagging truant officers, to inspect the factories and industrial establishments and even to enforce the registration of juvenile employees in mercantile establishments.

The salary received by these officers is another complication. The \$1200 received by the factory inspector is so small that it is necessary for him to carry on a stone-cutting establishment adjoining his office, which in the case of the incumbency of a dishonest official would provide a way for "honest graft." (Fortunately this is not the case at present.) The protective officers are paid by the respective counties,

and the truant officers, \$2 a day by the school committee. These are the facts of the case.

§ 2. *The Organization of a Department of Labor and Child Protection.*—Out of this conflict of police power must evolve a uniform, easily running system of control. The State of Maine is too poor at present and may be for some years to come, to stand any duplication in machinery for the enforcement of these laws, and the present extent of the evils these agencies are organized to eradicate is not of enough magnitude to justify it. There is need of a central bureau of investigation and record at the State capital, of officers of the law who will see the cases of violation through the court, and of the host of men scattered over the different communities following up the individual children and returning them to school.

The present machinery available in the State, it would seem, is sufficient to accomplish this end provided there were pressure enough brought to bear by the people of the State to overcome the personal antagonism to such a scheme which would result from the petty jealousies of the individuals involved. Only a few changes would be necessary. The Governor already, through his power of removal, can see that the office of the factory inspector is removed to Augusta, where his duties could be limited to the careful investigation of the workings of the many laws which are now on the statute books and which are easily covered by the act organizing the Bureau of Industrial and Labor Statistics. For such work the amount paid by the Bureau for extra investigation might be saved and a like amount made available for the securing of assistance in regard to enforcement. If this assistance were even in a very meagre way paid to the county protective officers it would bring them into line as agents of the department and secure their permanence in every county. If, furthermore, the truant

officers were required by law to report to the county protective officers, a system would be inaugurated favorable to effective work. The parochial schools would not be able to avoid the duty of reporting truancy to State officials, but the present law would still require the school committee to vote the salary of the truant officers, or show reason why before the court. This scheme is not presented as a model for any other State, but as suited to the conditions of today in the State of Maine.

CHAPTER X

CHILD LABOR

§ 1. *Defects in The Law of 1907.*—Unfortunately the advance made in child-labor legislation in 1907 was not of a kind that was intended to remain without revision for a series of years. It was a compromise measure and was allowed to pass in a form that directly conflicted with the educational laws of 1905. The present labor law, in raising the minimum age to fourteen years, revoked Section 53 of the former act,¹ which provided for school attendance for sixteen weeks of all children between twelve and sixteen years of age, but did not revoke the section of the school law which required attendance for the whole time until fifteen years of age. So it is that in 1908 children can be employed under the factory act after they have proved that they have passed their fourteenth birthday, while they are open to arrest as truants if, during the year in which they are fourteen, they are found, while school is in session, employed in any factory. This condition allows for summer work and work after school for children of fourteen. The combined law (and legally it is combined, though at present the divisions of enforcement make it appear otherwise) would probably satisfy the physical and social needs of the children. Before the legislature of 1909 there will probably be introduced a bill to lower the compulsory attendance age to fourteen years and another to provide an educational test

¹ Act of 1887.

for all children applying for certificates of labor. In the present state of education in certain districts of Maine, the practical value of requiring an educational test as given in some more densely populated States is very questionable. An ungraded school affords no criterion as to the grade reached, while examination of children left to local school officials would not be practical on account of the conflict of authority between public and parochial schools. The educational test best suited to the Maine conditions would be obtained by a rigid enforcement of the existing laws by a reorganized Department of Labor and Child Protection. The act of filing, by the child of fourteen, of a birth record with an employer during the school term and its transmission as required by law to the office of the chief inspector would place in the hands of the department sufficient evidence to prosecute any case which might arise, even without locating the school, for the defense would have to prove, in the case of a private or parochial school child, that the school was approved by the school committee, that a signed certificate of his attendance, with address, was on file in the office of the school officers of the town in which the child resided, showing that the child was in attendance when the school was in session. The proof of the child's being employed would show any such certificate to be untrue, and no such defense would be attempted. Excuse by the school committee for "necessary absence" on account of ill health would not be allowed in the case, on account of poverty the charge of lack of support could be made under the cruelty law and the child committed to a suitable institution. No change in the standards of the child-labor laws should be made until the present laws are rigidly enforced.

§ 2. *Poverty of the Parents.*—The poverty of the parents of children illegally employed was the excuse for the non-

enforcement of the laws. The present law places the responsibility for certification upon the employer, but in the first half-year of the operation of the law, no cases were brought. It is stated by those familiar with charitable conditions in the State that there is not a great deal of poverty, and it is claimed by those who enforce the cruelties law that fathers and mothers can in almost every instance take care of their children. Still there exist a few children who are confronted with the almshouse and it is to the disgrace of Maine that children are at present to be found in the almshouses. Many more would be sent to homes if they could be taken care of under proper conditions. At present there are several voluntary associations taking care of orphan children, especially among the Roman Catholics, but it has been found impossible to obtain room for all destitute children in these homes. The State has at present an Industrial School for Girls at Hallowell and a State School for Boys at Portland. These Schools ¹ are equipped on the cottage plan, located on beautiful sites, are under the direction of a superior type of official, and are provided with better educational facilities than those existing in the other schools of the State. At present boys are committed for petty larceny, i. e., theft under a dollar, embezzlement, malicious mischief, malicious trespass, riotous conduct, truancy, disturbance of the peace and desecration of the Lord's day. It is felt by many that these children in the poorhouse and in the factories cannot be committed because they are not criminal, like the boys and girls in these State schools, but if there exists in the State of Maine one healthy boy of the age of fourteen who has not committed at least one of these "crimes" at some one time, he ought to be examined by a physician. Principal Wentworth of the State School for Boys, in reply to a query on the subject, states the following:

¹ Annual Reports, *Public Documents*, 1871-1907.

In regard to the problem of the dependent boy, that, of course, is a separate problem from that of the delinquent boy, and yet, the two problems coalesce to a considerable extent. I think on the whole that it would be desirable in this state to have a State Public School, to which dependent children could be sent, the school being for dependent children only, so that dependents would be cared for in an institution specially prepared for them. While to me this would be the ideal way, yet on the other hand by establishing more cottages here we could easily take dependent children as well as delinquent children and by suitable classification in our cottages could practically do away with the evil results which sometimes follow promiscuous intercourse of the two classes of children. Theoretically, there should be two institutions for these two classes of children; but practically, we could take care of them very nicely at this School by the addition of as many cottages as might be needed for them. I am decidedly opposed to the present practice which prevails to some slight extent of allowing dependent children to live at our poor-houses.

It would seem that some action should be taken by the legislature of 1909 to improve these conditions.

§ 3. *The Canning Industries*.—Another compromise was made in regard to the canning industry. This industry was made an exception by the statement in the act of 1907¹ that “nothing in the seven preceding sections shall apply to any manufacturing establishment or business, the materials and products of which are perishable and require immediate labor thereon, to prevent decay thereof or damage thereto.” During the year, 1907, an official investigation² was made of the canning industry by a special agent of the Bureau of Industrial and Labor Statistics, Miss Eva L. Shorey, in-

¹ *Laws of 1907*, chap. xlvii, sec. 5.

² *Report of Bureau of Industrial and Labor Statistics, 1907*, pp. 121-137.

tended to answer the statements¹ of Mr. John Spargo as to the conditions of that industry in the State of Maine. The investigation was made under the provision which was added to this section that "however, the employment of children therein shall be under the supervision of said inspector who shall on complaint investigate the sanitary conditions, hours of labor and other conditions detrimental to children, and if in his judgment he finds detrimental conditions to exist, he may, in conjunction with the municipal officers of the town or city of which the complaint is made, prohibit the employment of children therein until such conditions are removed." The facts are indisputable as to the filth in these factories and the length of the hours and the violation of the school law. The problem of enforcement of the school law and the general provisions of the factory act are not as difficult as would at first appear. The report shows² that the William Underwood Company at West Jonesport has, by the investment in first-class machines to do the work, provided a model factory. The report says, speaking of the Underwoods, "The floor in the flaking room is of concrete, the interior is painted white and cleanliness pervades every part. Machinery is used in nearly every part of the process and thus many of the unpleasant features observed in the usual method of packing are absent." If one manufactory can make a profit with a model plant in competition with the old wooden shacks that exist elsewhere, there is no argument left from a practical business standpoint for the owners of the other type of factory. The power is in the hands of the factory inspector and there is no need for change in the law but simply the need of the moral backing of the community. Furthermore it is extremely doubtful whether this is

¹ John Spargo, *Bitter Cry of the Children*, pp. 170-171.

² *Report of Bureau of Industrial and Labor Statistics*, 1907, p. 136.

a business in which the materials and products are "perishable and require immediate labor thereon to prevent decay thereon or damage." We did not hear the packers of Chicago complain that their work was of a perishable type and in danger of decay even when their hogs were found by the inspectors to be rotting in the cars. Every business man knows that if more material is brought to the sheds than can be taken care of within the reasonable hours of labor, it is likely to be damaged unless properly stored. It is an old saying that "there are more fish in the sea than have ever been caught," and every fisherman along the coast has learned not to load his boats with more fish than he can properly take care of when he reaches land. Why should those great fishers who hire steam tugs that can go out in any weather, that use seines which can be used to scoop up myriads of fish in a few moments, not be asked to conform to the same laws of business which the Maine fishermen and their ancestors since the time of the Vikings have found applicable? The conditions described by Miss Shorey are not those of the seasonal work¹ found in some other canneries, for instance those in which beans are prepared for the market. Where beans are rotting on the vines and must be harvested and prepared within a limited time, and where as with beans, though it does not apply to any other type of canning, there are no machines as yet invented which can successfully accomplish the work, the claim of "perishable" may hold with some justification before a court. On this ground the exceptional clause in the law of 1907 may be justifiable, but the proof remains with the canners of fish to sustain their claim of inherent perishability of their goods, which are different from all other goods of the meat variety.

¹ E. S. Whitin, "Children in the Canning Industry," *Outlook* (Jan. 21, 1905).

Fish under the Pure Food Law¹ is meat, and the affidavit of a fish canner as to actual conditions under which the canning is being done in these Maine establishments would be enough to force the Chief of the Bureau of Animal Industry at Washington to place the whole work under Government supervision. Under Government supervision model conditions would be established and machinery introduced which would do away with any justification of child-labor.

§ 4. *Mercantile Establishments.*—The investigation² of the mercantile establishments of Portland by Miss Shorey in 1907 shows that there were uniformly good conditions. This statement is verified by the Young Women's Christian Association secretaries, who have an extensive welfare work in connection with these establishments. These stores are at present not covered by the labor law. "It has been strongly urged," says Miss Shorey, "that the word 'mercantile' be placed in the law to include stores as well as factories." Mrs. Burnham, the officer of the Children's Protective League of Portland, is anxious for such an amendment, but by means of the compulsory education law has been able to demand of the department stores of Portland that they exclude young children and has secured from them certificates showing the names and ages of all children in their employ. This is a good illustration of the possibility of supplementing weak places in one law by the use of general powers given through another, and it probably would not be impossible under the system of centralized enforcement suggested in a previous chapter to regulate these

¹ Dr. Wiley, *Foods and their Adulteration*, U. S. Department of Agriculture Circular no. 19, p. 503.

² "Women Wage-Workers," *Report of Bureau of Industrial and Labor Statistics*, 1907, p. 138.

mercantile establishments even without a distinctive mercantile law. Under the present system of enforcement little would be accomplished by including the mercantile establishments under factory law.

§ 5. *Street Trades*.—Street trades for children outside of the big cities cannot be classed as dangerous, with the probable exception of the newsboy who jumps on and off the rapidly moving cars. Portland has succeeded very well in solving this problem by the passage of a city ordinance¹ in 1906, enforced by the police, requiring all newsboys to be licensed. It serves the purpose as well as a State regulation could and has proved entirely satisfactory. It might well be adopted in Bangor and several other of the large cities. The ordinance as approved June 27, 1906, reads as follows:

Sec. 1. No person shall sell or offer to sell any newspaper or newspapers in any of the public streets, squares or grounds, or in any public place in the city of Portland, unless he has received a license for said purpose in the manner hereinafter provided.

Sec. 2. The city marshal is hereby authorized and directed to grant licenses to persons of good moral character. When the applicant for such license is a minor under the age of ten years, license shall be refused him, unless upon the written request of his parents or guardian. Every licensee shall at all times, while offering newspapers for sale upon the streets, squares or grounds, or in any public place, wear a badge on the outside of his outer garment, and so placed that it may be distinctly seen and read.

Said badges shall be of uniform size and shall be furnished by the city marshal at the expense of the licensee. All licenses granted as aforesaid shall expire on the first day of May after said license has been granted, unless sooner revoked by the city marshal. No license shall be sold, assigned

¹ *City Ordinances*, Portland, 1906.

or transferred. Every licensee shall, when required, exhibit his license to any police or other officer of said city.

Sec. 3. This ordinance shall take effect when approved.

Closely associated with street trades is the work in the bowling alleys and the telegraph offices which will soon need careful regulation although at present perhaps the few children employed in such establishments in Maine can all be reached as has been done in Portland, by a committee from the Central Federation of Labor,¹ who have been able to eliminate during the winter of 1907-8 all such labor from the City of Portland by influencing the parents.

¹ From information received from Mr. A. Eagles, chairman Central Federation of Labor.

CHAPTER XI

PROVISIONS AFFECTING ALL EMPLOYEES

§ 1. *Arbitration*.—The administration and enforcement of such laws as the fortnightly payment law, the ten-hour law and the regulation of safety appliances and sanitary conditions in the factories has been a matter of no very great difficulty for many years, especially in those trades where the unions have a strong organization. Most of the factories of the State are run by men who have the best interests of their employees at heart and take pride in having good, up-to-date factories. The factory inspector seems never to have used force in persuading compliance with these regulations, probably because in most instances moral suasion was sufficient, although in some cases frequent complaint was necessary to bring about some kind of compliance with the law.

The department seems to have been of considerable value in the adjustment of dispute, and it would seem that a board of conciliation and arbitration, to form which a bill was introduced in 1905, would be the logical development of this end of the work. It would come naturally into such a scheme for the reorganization of the department as suggested in a previous chapter. The further extension of the fortnightly payment regulations to a larger number of trades could not help but be beneficial to the employee. The enforcement of such regulations so as to cripple business enterprise and so deprive the laborer of his occupation would

never be permissible as a use of police power or be sustained by any court.

§ 2. *Fifty-Eight Hour Law.*—The experience of other states in the competition for labor has proved that the state that has the best regulations in regard to the hours of labor secures the best labor. The clamor of the unions for a fifty-eight hour law is only the noisy side of a general feeling which pervades the State that a reduction of the hours of labor to fifty-eight per week is necessary to acquire or even retain the right type of labor. In the seventy-second legislature an eight-hour bill was introduced, but it is questionable whether at the present time, if such a bill were passed, it would not be found unconstitutional.

§ 3. *Employers' Liability.*—The failure of the employers' liability bill to pass has left the laborer unprotected in the dangerous trades, there being no regulation even in regard to minors in those trades. The message of President Roosevelt to Congress in December, 1907 made clear the principle that the employer's liability was simply the distribution of the accident insurance over a larger number of people, the burden being placed on the consumer where there were fixed wages or upon all the employees where there were variable wages. If this is so the employer will only have the responsibility of seeing that it is given to the proper recipient.

§ 4. *Conclusion.*—Factory legislation in Maine, whether we take it from its historical or its administrative side, cannot help but seem to the reader of these pages a mass of unconnected attempts to get at something in the way of amelioration of the conditions of the laboring classes—a something as yet undefined by court or legislature, yet a something that flows steadily on toward a goal we know not of. To the conservative man there comes a feeling of reaction against the radical movements of the Knights of

Labor and the more recent labor bodies, and the thought of an initiative and a referendum, giving into the hands of the masses the power of bringing about rapid changes, seems revolutionary and dangerous. Rumor has it that this something is socialism come to destroy. But to the man who can withdraw from the field of the contest between capital and labor, and trace with care the evolution of our present laws through those many periods which have seemed revolutionary, there comes a sense that this something toward which these movements, and the laws which result from them, are tending, is not anarchy but harmony, a harmony in the process of ever projecting itself, a harmony in which capital and labor are coming to realize, and to express in laws, that they are one and inseparable.

The machinery of the law, in which our experimentation and invention have gradually tended to decrease the friction, has increased in efficiency. Every increase in efficiency of the machinery in the State, as in the workshop, has tended to displace and embarrass those who are not able to adjust themselves to the bettering conditions, but the increase of efficiency has ever added to the total product which it is possible to produce. The increase of profit makes possible enlarged opportunities, ever-increasing, whither we do not know, yet our duty lies ever in the search for the new which will aid toward the developing of a higher perfection, a greater harmony. To thus seek, is the duty of all who are engaged in the industrial life of our time, and surely the men of Maine have no higher call. If a little light thrown by these pages upon some dark and forgotten byways may be a guide to some groping feet toward this harmony there will have been accomplished what was intended.

LABOR LAWS OF MAINE, 1908

The following list contains all the laws relating to the interests of the laboring people of Maine as collected by the Bureau of Industrial and Labor Statistics and published in the report of the Bureau for 1907. To the law as it appears in the Revised Statutes of 1903 is added a statement of the original laws, any amendments thereto, and the most important decisions. Page references to the mention of the law or decision made in the foregoing history of the factory legislation will be found. In the case of laws relative to railway and seamen a line has been inserted to indicate that they are not considered in this study.

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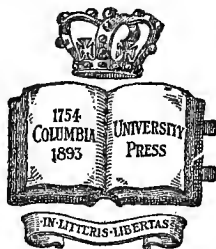
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